FORECLOSURES CONTINUE: WHAT NEEDS TO CHANGE IN THE ADMINISTRATION'S RESPONSE

HEARING

BEFORE THE

SUBCOMMITTEE ON DOMESTIC POLICY

OF THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

FEBRUARY 25, 2010

Serial No. 111–134

Printed for the use of the Committee on Oversight and Government Reform

Available via the World Wide Web: http://www.gpoaccess.gov/congress/index.html
http://www.oversight.house.gov

U.S. GOVERNMENT PRINTING OFFICE

65–124 PDF WASHINGTON : 2011

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

EDOLPHUS TOWNS, New York, *Chairman*

PAUL E. KANJORSKI, Pennsylvania
CAROLYN B. MALONEY, New York
ELIJAH E. CUMMINGS, Maryland
DENNIS J. KUCINICH, Ohio
JOHN F. TIERNEY, Massachusetts
WM. LACY CLAY, Missouri
DIANE E. WATSON, California
STEPHEN F. LYNCH, Massachusetts
JIM COOPER, Tennessee
GERALD E. CONNOLLY, Virginia
MIKE QUIGLEY, Illinois
MARCY KAPTUR, Ohio
ELEANOR HOLMES NORTON, District of Columbia
PATRICK J. KENNEDY, Rhode Island
DANNY K. DAVIS, Illinois
CHRIS VAN HOLLEN, Maryland
HENRY CUELLAR, Texas
PAUL W. HODES, New Hampshire
CHRISTOPHER S. MURPHY, Connecticut
PETER WELCH, Vermont
BILL FOSTER, Illinois
JACKIE SPEIER, California
STEVE DRIEHAUS, Ohio
JUDY CHU, California

DARRELL E. ISSA, California
DAN BURTON, Indiana
JOHN L. MICA, Florida
MARK E. SOUDER, Indiana
JOHN J. DUNCAN, JR., Tennessee
MICHAEL R. TURNER, Ohio
LYNN A. WESTMORELAND, Georgia
PATRICK T. MCHENRY, North Carolina
BRIAN P. BILBRAY, California
JIM JORDAN, Ohio
JEFF FLAKE, Arizona
JEFF FORTENBERRY, Nebraska
JASON CHAFFETZ, Utah
AARON SCHOCK, Illinois
BLAINE LUETKEMEYER, Missouri
ANH "JOSEPH" CAO, Louisiana

RON STROMAN, *Staff Director*
MICHAEL MCCARTHY, *Deputy Staff Director*
CARLA HULTBERG, *Chief Clerk*
LARRY BRADY, *Minority Staff Director*

SUBCOMMITTEE ON DOMESTIC POLICY

DENNIS J. KUCINICH, Ohio, *Chairman*

ELIJAH E. CUMMINGS, Maryland
JOHN F. TIERNEY, Massachusetts
DIANE E. WATSON, California
JIM COOPER, Tennessee
PATRICK J. KENNEDY, Rhode Island
PETER WELCH, Vermont
BILL FOSTER, Illinois
MARCY KAPTUR, Ohio

JIM JORDAN, Ohio
MARK E. SOUDER, Indiana
DAN BURTON, Indiana
MICHAEL R. TURNER, Ohio
JEFF FORTENBERRY, Nebraska
AARON SCHOCK, Illinois

JARON R. BOURKE, *Staff Director*

CONTENTS

FORECLOSURES CONTINUE: WHAT NEEDS TO CHANGE IN THE ADMINISTRATION'S RESPONSE

THURSDAY, FEBRUARY 25, 2010

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON DOMESTIC POLICY,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 2 p.m., in room 2154, Rayburn House Office Building, Hon. Dennis J. Kucinich (chairman of the subcommittee) presiding.

Present: Representatives Kucinich, Issa, Turner and Jordan.

Staff present: Jaron R. Bourke, staff director; Yonatan Zamir, counsel; Jean Gosa, clerk; Charisma Williams, staff assistant; Leneal Scott, IT specialist, full committee; John Cuaderes, minority deputy staff director; Adam Fromm, minority chief clerk and Member liaison; Kurt Bardella, minority press secretary; Hudson Hollister, minority counsel; and Brien Beattie and Mark Marin, minority professional staff members.

Mr. KUCINICH. Thank you very much for being here. Good afternoon, I'm Dennis Kucinich, Chairman of the Domestic Policy Subcommittee of the Committee on Oversight and Government Reform. Welcome to today's hearing, "Foreclosures Continue: What Needs to Change in the Administration's Response."

Today's hearing is a continuation of the subcommittee's series of hearings examining the characteristics of the ongoing residential foreclosure crisis and the impact of the administration's response.

Now, without objection, the Chair and the ranking minority member will have 5 minutes to make opening statements, followed by opening statements not to exceed 3 minutes by any other Member who seeks recognition. And without objection, Members and witnesses may have 5 legislative days to submit a written statement or extraneous materials for the record.

I want to acknowledge the presence of my colleague from Ohio Congressman Turner from the Dayton area. Welcome. I appreciate you being here. I know that you have another hearing to go to. And we're going to move through the opening statements and give you a chance to be heard from as well.

This subcommittee began holding hearings on the subject of the foreclosure crisis and solutions to it 3 years ago. Since that time we've met nine times on the subject. It's not hyperbole to say that this is the worst economic crisis to hit America since the Great Depression. The fallout from the crash in the housing market and the recession that has overtaken our country has left no community in the country untouched. Nearly every level of economic activity has been affected negatively. Nationally the unemployment rate is approximately 10 percent, and in some States it's nearly 15 percent. Foreclosures continue; 2.9 million borrowers received foreclosure notices in 2009, and it's predicted nearly 2½ million more borrowers will lose their homes—will lose their homes to foreclosure this year.

According to the most recent data, more than 15 percent, one in six, of all mortgages are in trouble; 2.6 million borrowers have missed at least three payments on their mortgages, making them seriously delinquent. This is double the level of 1 year ago and is the highest number of delinquencies on record since 1972, according to the Mortgage Bankers Association.

Now, let's be clear, this foreclosure crisis started well before the current administration came into office, but like the Great Depression, the administration that inherited the crisis will be judged for how they respond, and that judgment can be as harsh as if they had created the crisis themselves.

The American people expect and the American people deserve bold initiatives from their government to help as many people as possible. Unfortunately, in my opinion, much time has been wasted by relying on lenders and investors to choose to modify loans to keep people in their homes. Indeed, even as this administration quickly created a program that the previous one wouldn't even consider, the Making Home Affordable program, it continued to rely on the charitable impulses of the industry that has nearly bankrupted the Nation. But the industry that received a trillion-dollar bailout has been unwilling to absorb the losses, to write down bad debts, and their recalcitrance is holding up the resolution of the foreclosure crisis.

Thus, the administration's centerpiece loan modification program, known as the Home Affordable Modification Program [HAMP], has not lived up to its high expectations. The Treasury points out that 75 percent of the 1 million or so borrowers who have been offered modifications under the program are making their payments, and it's just a matter of borrowers getting all their documents to lenders. And certainly for a program that is just under a year since its creation, the efforts to publicize it and encourage participation are laudable, but it's also severely flawed. It doesn't address one of the key problems facing borrowers, the problem of negative equity of a house that is worth less than the mortgage. It is marred by geographical disparities. And its affordability objectives rely upon stretching out the payments, an approach that can saddle the borrower with more debt, not less, and which makes sense only on the assumption that home values are eventually going to go right back up.

Now, on Friday this administration announced a pilot initiative to distribute $1.5 billion in TARP money to five States. That list did not include Ohio or other States that were hit harder and earlier by the foreclosure crisis. Even if Ohio had been included in that list, it would not have been enough to make a meaningful headway in a crisis. In fact, the State set a record for foreclosures last year, the 14th year in a row of increases. But as we will hear today, no matter how grim the statistics are, there are still plenty of people in Ohio and in many other States that are hoping and waiting for some relief.

Americans will be able to tell if Washington is faking it. Millions of people will have personal knowledge of whether or not the government gave them real help which for many borrowers must necessarily include principal reduction. There is still time in Ohio and in communities across America to create a positive and fruitful legacy of this administration's response to the foreclosure crisis. My hope is that this administration feels the urgency and the need to make this decisive difference.

I want to—in addition to acknowledging our first witness Ms. Caldwell, I also want to acknowledge the presence in the audience of the treasurer of Cuyahoga County, OH, Jim Rokakis, who has been a stalwart in not just examining this, this matter of the impact of foreclosures, but has really been a leader nationally in suggesting solutions and a way forward.

So, Treasurer Rokakis, I appreciate your presence here today.

We also have a local TV reporter, Bill Sheil, who actually did an investigation that we're going to give this committee a quick glimpse of in the same panel a little bit later that Mr. Rokakis is on. So welcome to Washington.

[The prepared statement of Hon. Dennis J. Kucinich follows:]

Opening Statement
Of
Dennis J. Kucinich, Chairman

Domestic Policy Subcommittee
Oversight and Government Reform Committee

Thursday, February 25, 2010, 2:00 pm
Room 2154, Rayburn House Office Building
Washington, DC

"Foreclosures Continue: What Needs to Change in the Administration's Response."

Good afternoon and welcome.

This Subcommittee began holding hearings on the subject of the foreclosure crisis, and solutions to it, three years ago. Since that time, we have met nine times on the subject.

It is not hyperbole to say that this is the worst economic crisis to hit America since the Great Depression. The fallout from the crash in the housing market, and the recession that has overtaken our country, has left no community in the country untouched. Nearly every level of economic activity has been affected negatively. Nationally, the unemployment rate is approximately ten percent, and in some states, it is nearly fifteen percent. Foreclosures continue—2.9 million borrowers received foreclosure notices in 2009, and it is predicted nearly two and a half million more borrowers will lose their homes to foreclosure this year. According to the most recent data, more than 15%—one in six—of all mortgages are in trouble. 2.6 million borrowers have missed at least three payments on their mortgages, making them seriously delinquent. This is double the level of one year ago and is the highest number of delinquencies on record since 1972, according to the Mortgage Bankers Association.

Let's be clear: this foreclosure crisis started well before the current administration came into office. But like the Great Depression, the Administration that inherited the crisis will be judged for how they respond. And that judgment can be as harsh as if they had created the crisis themselves.

The American people expect and deserve bold initiatives from their government that help as many people as possible. Unfortunately, in my opinion, much time has been wasted by relying upon lenders and investors to choose to modify loans and keep people in their homes. Indeed, even as this Administration quickly created a program that the previous one wouldn't even consider -- the Making Home Affordable program -- it continued to rely on the charitable impulses of the industry that has nearly bankrupted the nation. But the industry that received a trillion dollar bailout has been unwilling to absorb the losses, to write down bad debts, and their recalcitrance is holding up the resolution of the foreclosure crisis.

Thus, the Administration's centerpiece loan modification program, known as the Home Affordable Modification Program, or "HAMP", has not lived up to its high expectations. Treasury points out that 75% of the 1 million or so borrowers who have been offered modifications under the program are making their payments, and it's just a matter of borrowers getting all their documents to lenders. And certainly, for a program that is just under a year since its creation, the efforts to publicize it and encourage participation are laudable. But it is also severely flawed. It doesn't address one of the key problems facing borrowers – the problem of "negative equity" or a house that is worth less than the mortgage. It is marred by geographical disparities. And its affordability objectives rely upon stretching out the payments, an approach that can saddle the borrower with more debt, not less, and which makes sense only on the assumption that home values are eventually going to go right back up again.

On Friday, the Administration announced a pilot initiative to distribute $1.5 billion in TARP money to five states—but that list did not include Ohio, or other states that were hit harder and earlier by the foreclosure crisis. Even if Ohio had been included in that list, it would not have been enough to make a meaningful headway in the crisis: In fact, the state set a record for foreclosures last year, the 14th year in a row of increases. But as we will hear today, no matter how grim the statistics are, there are still plenty of people—in Ohio and in many other states—that are hoping and waiting for some relief.

Americans will be able to tell if Washington is faking it. Millions of people will have personal knowledge of whether or not the Government gave them real help, which, for many borrowers must necessarily include principal reduction. There is still time—in Ohio, and in communities across America—to create a positive and fruitful legacy of this Administration's response to the foreclosure crisis. My hope is that this Administration feels the urgency and the need to make this decisive difference.

Mr. KUCINICH. I'm going to proceed right now to the opening statement from our ranking member, Congressman Jordan of Ohio. You may proceed.

Mr. JORDAN. Thank you, Mr. Chairman.

Let me, too, thank Mr. Rokakis for being with us, and Ms. Caldwell. I know they were both there in Cleveland when we had the field hearing a few months back.

Mr. Chairman, we do appreciate this hearing today. Homeowners across the country are suffering. Just last week the Mortgage Bankers Association reported that the combination of loans in foreclosure and one payment behind in their mortgage was over 15 percent, the highest in the history of the survey. Meanwhile home prices keep falling, U.S. banks are posting their sharpest declines in earning since 1942.

At the recent field hearings of this subcommittee in Atlanta and Cleveland, we have received overwhelming evidence of the failure of the administration's policies and programs to stem the tide of mortgage defaults and foreclosures. In addition to trade organizations, think tanks and government accountability groups have produced reams of reports that demonstrate how the administration's most active program, HAMP, has not only failed to accomplish the administration's promise of assisting 3 to 4 million American homeowners, but is actually harming homeowners in the broader economy.

This harm, Mr. Chairman, can be measured in several ways. First, the administration's mortgage modification efforts are costing taxpayers as much as $75 billion. Since the President took office, he has told the American people time and again that the answer to our economic problems is more government spending and new government programs. And time again this administration has told the American people that they should expect a return on their investments through bailouts and stimulus spending. And they have been told that they will be able to track this return through an unprecedented level of transparency and accountability. But once again, the administration is breaking these promises to the American people in the face of widespread bipartisan criticism of HAMP. For example, the Treasury Department has retreated into secrecy by halting the dissemination of information on the program's Web site that would allow the public to track the program's success rate.

The public is also harmed when the government spends their money on failed programs. It is doubly harmed when the government tries to disguise its failures by hiding information from the American people.

We've also learned that many of the people who have received temporary assistance through the administration's programs are now discovering they're ineligible for the long-term mortgage modification. As the New York Times has recently reported, this means that many Americans are throwing their money into homes that they believe the government would help them keep only to find out thousands of dollars later that they will face foreclosure anyway.

Delaying foreclosure, Mr. Chairman, does not help the many Americans who are fighting to keep their jobs or find new ones. Delayed foreclosures only serve to prolong the economic hardship, drain them of much-needed resources, and defraud them the opportunities to find more affordable housing options.

In fact, it seems that the only good thing that the administration's efforts have accomplished is to reinforce in the minds of the American people the reality that technocratic tinkering is not an effective solution to our economic problems. The only viable, long-term solution is to keep more Americans in their homes and in their jobs. For that matter it is a broad-based economic recovery built on the foundation of free markets, fiscal responsibility and limited government that has made our Nation strong and prosperous for more than 200 years.

Mr. Chairman, I would also ask unanimous consent to enter into the record a staff report that was released this morning along with ranking member of the full committee Mr. Issa, the title of which is "Treasury Department's Mortgage Modification Programs: A Failure Prolonging the Economic Crisis."

Mr. KUCINICH. So ordered.

Mr. JORDAN. Thank you.

Mr. KUCINICH. Without objection.

[The prepared statement of Hon. Jim Jordan follows:]

EDOLPHUS TOWNS, NEW YORK
CHAIRMAN

DARRELL E. ISSA, CALIFORNIA
RANKING MINORITY MEMBER

ONE HUNDRED ELEVENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6143

Majority (202) 225–5051
Minority (202) 225–5074

Statement of Representative Jim Jordan, Ranking Member

Subcommittee on Domestic Policy

"Foreclosures Continue: What Needs to Change in the Administration's Response"

February 25, 2010

Thank you, Mr. Chairman, for holding today's hearing to examine the continuing failure of the Administration's response to the foreclosure crisis. Homeowners across the country are suffering. Just last week, the Mortgage Bankers Association reported that the combination of loans in foreclosure and one payment behind in their mortgage was over 15 percent, the highest in the history of the survey.

Meanwhile, home prices keep falling and U.S. banks are posting their sharpest declines in lending since 1942.

At recent field hearings of this Subcommittee in Atlanta and Cleveland, we have received overwhelming evidence of the failure of the Administration's policies and programs to stem the tide of mortgage defaults and foreclosures. In addition, trade organizations, think tanks, and government accountability groups have produced reams of reports that demonstrate how the Administration's most active program, HAMP, has not only failed to accomplish the Administration's promise of assisting 3-4 million American homeowners, but is actually harming homeowners and the broader economy.

This harm, Mr. Chairman, can be measured in several ways.

First, the Administration's mortgage modification efforts are costing taxpayers as much as $75 billion. Since the President took office, he has told the American people time and again that the answer to our economic problems is more government spending and new government programs. Time and again, this Administration has told the American people that they should expect a return on their investments through bailouts and stimulus spending. And they have been told that they will be able to track this return through an unprecedented level of transparency and accountability.

But, once again, the Administration is breaking these promises to the American people. In the face of widespread, bipartisan criticism of HAMP, for example, the Treasury Department has retreated into secrecy by halting the dissemination of information on the program's web site that would allow the public to track the program's success rate.

The public is always harmed when government spends their money on failed programs. It is doubly harmed when the government tries to disguise its failures by hiding information from the American people.

We've also learned that many of the people who have received temporary assistance through the Administration's programs are now discovering they are ineligible for long-term mortgage modifications. As the *New York Times* recently reported, this means that many Americans are throwing their money into homes that they believed the government would help them keep, only to find out thousands of dollars later that they will face foreclosure anyway.

Delaying foreclosures, Mr. Chairman, does not help the many Americans who are fighting to keep their jobs – or find new ones. Delayed foreclosures only serve to prolong their economic hardship, drain them of much-needed resources, and defraud them of opportunities to find more affordable housing options.

In fact, it seems that the only good thing that the Administration's efforts have accomplished is to reinforce in the minds of the American people the reality that technocratic tinkering is not an effective solution to our economic problems. The only viable long-term solution to keep more Americans in their homes – and in their jobs, for that matter – is a broad-based economic recovery built on the foundation of free markets, fiscal responsibility, and limited government that has made our nation strong and prosperous for more than two hundred years.

Thank you again, Mr. Chairman, for calling this hearing and I look forward to hearing from today's witnesses.

###

Submitted for the record by
Ranking Member Jim Jordan

02-25-10 2:00 p.m. 2154 Rayburn HOB

Domestic Policy Subcommittee

"Foreclosures Continue: What
Needs to Change in the
Administration's Response"

U.S. House of Representatives

Committee on Oversight and Government Reform

Darrell Issa (CA-49), Ranking Member, Full Committee
Jim Jordan (OH-4), Ranking Member, Domestic Policy Subcommittee

Treasury Department's Mortgage Modification Programs: A Failure Prolonging the Economic Crisis

Minority Staff Report
U.S. House of Representatives
111th Congress
Committee on Oversight and Government Reform
February 25, 2010

INTRODUCTION

This report by the Committee on Oversight and Government Reform Republican Staff tracks the history of the Obama Administration's foreclosure mitigation programs, focusing on the Home Affordable Modification Program (HAMP), the most active and highest-profile of those programs. HAMP is a $75 billion taxpayer-funded program that incentivizes mortgage companies to lower mortgage payments and renegotiate rates for homeowners facing foreclosure. In return, The U.S. Department of the Treasury subsidizes the modifications through direct payments to servicers, lenders, and borrowers.

These federally-imposed mortgage modifications are a questionable use of taxpayer resources and they have failed to have a significant effect on rising foreclosure rates. HAMP's failure to assist anywhere near the 3-4 million distressed homeowners to whom the Administration promised aid demonstrates that technocratic tinkering is not an effective way to solve economic problems. The only viable long-term solution to falling housing prices and rising foreclosures is a broad-based economic recovery.

In its current form, HAMP both hurts homeowners who might otherwise spend their trial-period mortgage payments on rent and also distorts the housing market, delaying any recovery. Treasury owes American taxpayers and homeowners an honest explanation of HAMP's ill-advised creation and ongoing mismanagement.

EXECUTIVE SUMMARY

HAMP has failed. By every empirical measure, HAMP has failed. In March 2009, the Administration promised it would "help up to 3 to 4 million homeowners avoid foreclosure." As recently as November 2009, Treasury suggested that HAMP would permanently modify mortgages for 375,000 borrowers by the end of the year. But at the end of January 2010, the program had produced only about 116,000 permanent modifications – despite pressure from the Obama Administration on mortgage companies. Meanwhile, a record proportion of U.S. mortgages are now in foreclosure.[1]

HAMP may actually hurt more homeowners than it helps. HAMP grants a trial modification while the homeowner's paperwork is being examined. After the homeowner's eligibility has been confirmed – so long as mortgage payments have continued uninterrupted – the program grants a permanent modification. Treasury's own data suggests that hundreds of thousands of homeowners would receive temporary modifications but fail to qualify for permanent ones, thus ultimately leading to default. These homeowners would have been better off if they had defaulted earlier and spent the payments on more affordable housing options.

---

[1] Julie Haviv, "Mortgages foreclosing, delinquent at 16 percent in Q4," *Washington Post*, Feb. 19, 2010.

Treasury is trying to hide the failure of HAMP. Despite repeated promises of transparency, Treasury has tried to cover up HAMP's failure. For example, Treasury stopped reporting a key number in January 2010, a move that effectively prohibited government watchdog groups and news organizations from calculating and reporting HAMP's success rate to the public.

THE OBAMA ADMINISTRATION'S FORECLOSURE MITIGATION PROGRAMS

Between February and March of 2009, Treasury unveiled its Making Home Affordable (MHA) initiative,[2] the "Federal government's central tool to combat foreclosures."[3] MHA has two primary components: the Home Affordable Refinance Program (HARP) and the Home Affordable Modification Program (HAMP). Treasury Secretary Timothy Geithner promised that the programs would observe "new, higher standards for transparency and accountability."[4] Geithner said, "Government support must come with strong conditions to protect the taxpayer and with transparency that allows the American people to see the impact of their investments."[5]

HARP is a refinancing program for existing mortgages that are owned or guaranteed by Fannie Mae and Freddie Mac, two government securitized entities (GSE) under federal conservatorship since 2008. GSEs typically are barred from purchasing mortgages with loan-to-value ratios above 80 percent without private mortgage insurance coverage.[6] Under HARP, Fannie and Freddie allow eligible borrowers to refinance mortgages with principal balances up to 125 percent of current value.[7] To qualify, homeowners must have been current on their mortgage payments for the past year. HARP refinancings must either decrease the borrower's monthly mortgage payment or move the borrower to "a more stable mortgage product."[8] The refinancings are limited to first mortgages. The government does not directly subsidize HARP refinancings; instead, the program's fiscal impact is on the GSEs' balance sheets.[9] Treasury originally predicted that HARP would be available to "4 to 5 million homeowners."[10]

---

[2] Treasury Department Press Release, "Homeowner Affordability and Stability Plan," Feb. 18, 2009, *available at* http://www.financialstability.gov/latest/tg33.html.

[3] Congressional Oversight Panel, *October Oversight Report: An Assessment of Foreclosure Mitigation Efforts After Six Months*, Oct. 9, 2009 ("Oversight Report"), *available at* http://cop.senate.gov/documents/cop-100909-report.pdf.

[4] Treasury Department Press Release, "Secretary Geithner Introduces Financial Stability Plan," Feb. 10, 2009, *available at* http://www.ustreas.gov/press/releases/tg18.htm.

[5] *Id.*

[6] Oversight Report at 42.

[7] Making Home Affordable Frequently Asked Questions, July 16, 2009 (hereinafter "MHA FAQ"). HARP originally was limited to mortgages with principals up to 105 percent of current market value; on July 1, 2009, Treasury raised the limit to 125 percent.

[8] Oversight Report at 41.

[9] Since the GSEs are in Federal conservatorship, however, their activities will have an eventual impact on the Federal budget.

[10] *See* Summary Guidelines.

HAMP includes four sub-programs: (a) a first-lien modification program, (b) a second-lien modification program, (c) the Home Price Decline Protection (HPDP) program, and (d) the Home Affordable Foreclosure Alternatives Program (HAFA). HAMP's first-lien mortgage modification program was the first announced, has the highest profile, and is described throughout this memorandum. Treasury has offered scant public disclosure about the other sub-programs, and they appear to have had very little effect.[11]

HARP and HAMP join two pre-existing federal foreclosure mitigation programs, HOPE for Homeowners and the FDIC's Loan Modification Program. HOPE for Homeowners, part of the Housing and Economic Recovery Act (HERA) of 2008, permits borrowers to refinance into a Federal Housing Administration (FHA) loan, requires lenders to write down the principle to 90 percent of the value of the property, and requires borrowers to share any future equity appreciation with the FHA. Though originally projected to help 400,000 homeowners, HOPE for Homeowners had only closed 96 loans as of January 2010, despite vague promises by the FHA that the program would be expanded.[12] Finally, the FDIC has established a loan modification program that is a mandatory component of its 55 mortgage loss-sharing agreements with purchasers of failed banks' assets. The program is similar to HAMP's first-lien modification program. The FDIC has not yet submitted data on the number of loans modified under its program.

On February 19, 2010, during a campaign appearance in hard-hit Nevada with Senator Harry Reid (D-NV), President Obama announced that $1.5 billion in Recovery Act funds would be allocated to state housing agencies[13] in five states: Nevada, California, Michigan, Florida, and Arizona.[14] The state agencies would be permitted to use the funds for (1) programs assisting unemployed borrowers, (2) programs assisting borrowers owing more than the value of their homes, (3) programs incentivizing the modification of second liens, and (4) "other programs encouraging sustainable and affordable housing."

---

[11] Treasury first announced the eligibility, underwriting, and servicing requirements for the second-lien modification program on August 13, 2009. *See* Treasury Department, Supplemental Directive 09-05, "Introduction of the Second Lien Modification Program," Aug. 13, 2009, *available at* **https://www.hmpadmin.com/portal/docs/second_lien/sd0905.pdf.** But no mortgage servicer joined the program until Bank of America did so on January 26, 2010. *See* Bank of America Press Release, "Bank of America Becomes First Mortgage Servicer to Sign Contract for Home Affordable Second-Lien Modification Program, Jan. 26, 2010, *available at* **http://newsroom.bankofamerica.com/index.php?s=43&item=8624**. Treasury has not reported that any second mortgages has been modified under the second-lien program. Meanwhile, Treasury has not publicly disclosed any activity in the Home Price Decline Protection (HPDP) program, which is intended to pay additional incentives to investors who own HAMP-eligible mortgages to permit those loans to be modified. HAFA, which provides incentives to servicers and borrowers who utilize a short sale or a deed-in-lieu to avoid a foreclosure on a HAMP-eligible loan, will not begin on a mandatory basis until April 5, 2010. *See* Treasury Department, Supplemental Directive 09-09, "Introduction of Home Affordable Foreclosure Alternatives – Short Sale and Deed-in-Lieu of Foreclosure, Nov, 30, 2009, *available at* **https://www.hmpadmin.com/portal/docs/hamp_servicer/sd0909.pdf.**

[12] Dawn Kopecki and Theo Francis, "U.S. May Retool Loan Program for Underwater Borrowers," *Business Week*, Jan. 27, 2010.

[13] White House Press Release, "President Obama Announces Help for Hardest Hit Housing Markets," Feb. 19, 2010, *available at* **http://www.whitehouse.gov/the-press-office/president-obama-announces-help-hardest-hit-housing-markets** ("February 2010 Announcement").

[14] Kate Anderson Brower, "Obama Announces $1.5 Billion in Aid for Homeowners," *Business Week*, Feb. 19, 2010.

HAMP'S FIRST-LIEN MODIFICATION PROGRAM: $75 BILLION TO SUBSIDIZE MORTGAGE MODIFICATIONS

HAMP's first-lien modification program (for simplicity, referred to hereinafter simply as HAMP) is the $75 billion centerpiece of the Federal government's foreclosure mitigation efforts. It is funded with $50 billion from TARP, which will subsidize the modification of privately-owned mortgages, and $25 billion from HERA, which will subsidize the modification of mortgages owned by Fannie and Freddie. Although it describes TARP as an "investment," Treasury admits that the $50 billion in TARP funds allocated for HAMP will not be returned; HAMP's intent is to subsidize, not to invest.[15]

Under HAMP, participating mortgage servicers sign contracts with Fannie Mae, Treasury's designated financial agent, agreeing to grant mortgage modifications to borrowers under prescribed circumstances. In return, Treasury subsidizes the modifications through direct payments to servicers, lenders, and borrowers. Treasury initially promised that HAMP would "help up to 3 to 4 million at-risk homeowners avoid foreclosure by reducing monthly mortgage payments."[16]

Participation in HAMP is mostly voluntary,[17] but most major servicers have signed up.[18] As of January 2010, 108 servicers had executed Participation Agreements.[19] Together with Fannie Mae and Freddie Mac, the participating servicers account for all but about 600,000 of the nation's HAMP-eligible delinquencies.[20] Treasury intends to dominate the market: it announced that HAMP's mandatory mortgage modification process will become "standard industry practice,"[21] replacing mortgage servicers' individualized business practices.

---

[15] *See* Office of the Special Inspector General for the Troubled Asset Relief Program, Quarterly Report to Congress, Oct. 21, 2009 (hereinafter "SIGTARP Report"), *available at* **http://www.sigtarp.gov/reports/congress/2009/October2009_Quarterly_Report_to_Congress.pdf**, at 39.

[16] *See* Summary Guidelines.

[17] Participation is mandatory for servicers of Fannie Mae or Freddie Mac mortgages and for participants in TARP programs initiated after February 9, 2009. Since the Capital Purchase Program (CPP), the primary TARP vehicle for bank assistance, was established before that date, the TARP participation requirement does not apply to most financial institutions.

[18] *See* MHA FAQ. The Majority Memorandum suggests that HAMP's ineffectiveness may be due in part to the fact that the program is "voluntary." But participating servicers – who represent a large majority of the nation's mortgage debt – are bound by their contracts with Fannie Mae to offer mortgage modifications.

[19] Treasury Department, Making Home Affordable Program Servicer Performance Report Through January 2010, Feb. 18, 2010, *available at* **http://www.financialstability.gov/docs/press/January%20Report%20FINAL%2002%2016%2010.pdf** ("January Servicer Report").

[20] Renae Merle, "Administration Pushed to Expand Foreclosure-Prevention Program," *Washington Post*, Feb. 18, 2010.

[21] *See* Summary Guidelines.

HAMP'S ONE-SIZE-FITS-ALL MORTGAGE MODIFICATION PROCESS

Under HAMP, Treasury codified a one-size-fits-all mortgage modification process that obligates participating servicers to grant subsidized modifications to borrowers under certain circumstances. For *every* eligible borrower whose loan passes Treasury's secret net present value test, payments are reduced to 31% of income, regardless of other circumstances.

Under HAMP, borrowers apply to their servicers to request modifications. Only first-lien mortgages that were originated before January 1, 2009, have principal balances beneath prescribed limits, and are in default or at risk of imminent default[22] are eligible. A borrower must demonstrate a monthly mortgage payment that exceeds 31 percent of monthly gross income and that the payment is not affordable due to a financial hardship.[23]

Servicers are required to use a net present value (NPV) test on each mortgage. The test compares the NPV of expected cash flows with and without modification. If the NPV is greater under the modification scenario, the servicer *must* offer to modify the loan.[24] The NPV test, which is described in more detail below, uses a secret calculation model that Treasury has refused to publish.

Treasury has chosen to reduce all monthly payments to 31 percent of the borrower's gross income. In every HAMP modification, the lender first reduces the payment to 38 percent of income, then Treasury and the lender share the burden of reducing the payment to 31 percent. Treasury will not share the burden of reductions that push the resulting interest rate below 2 percent. If a payment reduced to an interest rate of 2 percent is still above 31 percent of the borrower's gross monthly income, the servicer must extend the payment term and/or defer a portion of the principal. Servicers may, but are not required to, forgive a portion of the principal.[25]

---

[22] The Oversight Report noted that servicers had reported a lack of quality around the definition of "imminent default." *See* Oversight Report n. 124. On January 22, 2010, the Department of Housing and Urban Development announced a definition for "imminent default" that would apply to borrowers with FHA-insured loans (but not officially to other borrowers):

> FHA defines an "FHA borrower facing imminent default" to be an FHA borrower who is current or less than 30 days past due on the mortgage obligation and is experiencing a significant reduction in income or some other hardship that will prevent him or her from making the next required payment on the mortgage during the month that it is due.

Housing and Urban Development Press Release, "FHA to Provide Early Relief to Struggling Homeowners," Jan. 22, 2010, *available at*
http://portal.hud.gov/portal/page/portal/HUD/press/press_releases_media_advisories/2010/HUDNo.10-017.

[23] *See* MHA FAQ.

[24] *See* Summary Guidelines.

[25] *See* MHA FAQ.

HAMP modifications begin with a three-month trial period. If the borrower successfully makes all payments during the trial period, and the servicer is able to verify that the borrower's income and expense information is correct, then the servicer and the borrower execute a permanent modification agreement. Under the modification agreement, the interest rate is fixed for five years, but then rises by a maximum of one percentage point per year until it reaches the market rate at the time of the original modification.[26]

Treasury subsidizes HAMP modifications by (a) sharing the cost of reductions in monthly payments; (b) making direct incentive payments to the servicers of $1,000 for each loan modification, then $1,000 annually in a "pay for success" fee for each loan that continues to perform; (c) contributing up to $1,000 annually to reduce the principal for homeowners who make their payments on time; and (d) providing "bonus incentives" of $1,500 to the lender/investor and $500 to the servicer for each modification made while the borrower is still current on payments.[27]

HAMP-modified loans are a new phenomenon in the mortgage market and are not yet fully understood by either the industry or the government. Ironically, HAMP-modified loans are most closely comparable to subprime mortgage loans, and particularly hybrid-adjustable-rate mortgages (hybrid-ARMS). Like hybrid-ARMs, HAMP-modified loans feature initial below-market rates that last for a multi-year period, then adjust to higher rates. Like hybrid-ARMs, HAMP-modified loans are originated based on the borrower's ability to afford the initial rate, rather than the higher, post-adjustment rate.[28] In other words, as noted by the National Fair Housing Alliance at a Congressional Oversight Panel (COP) field hearing, "We don't have really permanent modifications . . . we have five year modifications ...."[29]

HAMP'S SECRET NET PRESENT VALUE CALCULATION MODEL

Under HAMP, a servicer must grant a modification if the application meets certain criteria and if the loan passes Treasury's mandatory net present value (NPV) test. Under the test, the servicer first determines the NPV of the proceeds from the liquidation and sale of a mortgaged property. Second, the servicer determines the NPV of expected proceeds if the modification is granted. This calculation takes into account the reduction in monthly payments, an expected redefault rate, and other variables. If the NPV under the modification scenario is greater than the NPV under the foreclosure scenario, then the servicer must offer to modify the loan.

---

[26] *See* MHA FAQ.

[27] *See* Summary Guidelines.

[28] Oversight Report at 99-100.

[29] Deborah Goldberg, *Philadelphia Field Hearing on Mortgage Foreclosures*, (Sept. 24, 2009), at 85. The Congressional Oversight Panel is charged under the Emergency Economic Stabilization Act of 2008 with overseeing the government's foreclosure mitigation efforts., Emergency Economic Stabilization Act of 2008, Pub. L. No. 110-343, sec. 125(b)(1) of Title 1.

Treasury requires servicers to use its proprietary mathematical model for the NPV test. Other government entities that require such calculations for various purposes – including the OCC, the OTS, and the FDIC – publish their NPV models, but Treasury does not.[30] Treasury has justified keeping its model secret by suggesting that secrecy will prevent borrowers from "gaming" the system.[31]

The COP was permitted to examine Treasury's NPV model. The COP found the model to be "highly sensitive to small changes in certain parameters as well as quite inflexible in other regards."[32] Because secrecy prevents borrowers from understanding the "specific reason for denying a modification and a clear path for appeal," the COP recommended that Treasury release the model.[33]

Moreover, the NPV test does not take into account what the Boston Federal Reserve has called the "self-cure risk," *i.e.*, the risk that a delinquent borrower would have been able to bring a mortgage loan current even without modification, thus rendering the expenses of the modification unnecessary.[34] Treasury's decision to impose its secret NPV model on the entire mortgage industry, and its goal of making that model an "industry standard" through HAMP, is likely to have unintended consequences.

HAMP'S DISAPPOINTING EARLY RESULTS AND THE ADMINISTRATION'S COERCIVE PRESSURE

In order to fulfill their new roles as Treasury-sponsored mortgage modification agencies, participating servicers created new business units, hired thousands of loan counselors, and opened new offices to promote HAMP and other programs. But the number of mortgages modified under HAMP disappointed the Administration. In particular, the number of trial modifications that successfully transitioned to permanent status remained extremely low throughout 2009.

By July 2009, participating financial institutions had offered borrowers approximately 270,000 trial modifications – a number inferior to the Administration's expectations.[35] To impose pressure on the servicers, Treasury Secretary Timothy Geithner and Housing and Urban Development Secretary Shaun Donovan responded by sending a letter scolding participating servicers. "We believe there is a general need for servicers to devote substantially more resources to this program for it to fully succeed and achieve the objectives we all share," Geithner and Donovan wrote.[36] They instructed participating servicers to expand their HAMP staffs, improve call center capacity, and better train

[30] *See* Oversight Report at 48.

[31] *See id.*

[32] *See* Oversight Report at annex C.

[33] *See* Oversight Report at 6.

[34] *See infra* for a summary of the Boston Fed's analysis.

[35] Renae Merle, "White House Prods Banks: Letter Tells Chiefs to Start Backing Mortgage Relief," *Washington Post*, July 10, 2009.

[36] *Id.*

employees to navigate the complex procedures. The letter also commanded the servicers to designate a senior liaison for HAMP and to send their executives to a July 2009 Washington meeting with Treasury and HUD officials. Mortgage servicers responded to the letter by issuing statements describing their efforts and voicing their support for HAMP.[37]

On July 29, 2009, Treasury reported that its meeting with servicers' executives had successfully improved the servicers' enthusiasm: "Servicers in attendance committed to significantly increasing the rate at which they are performing loan modifications." Treasury also reported that it would begin publicly releasing server-specific modification data; set customer-service metrics; and develop a "second look" process, in which Freddie Mac, "in its role as compliance agent," would audit samples of denied modification applications. [38] Treasury also began releasing monthly reports publicizing HAMP modification activity by servicer. The reports track each servicer's eligible delinquent loans (estimated), trial modification offers made to borrowers, and active trial and permanent modifications.[39]

As a result of the Administration's pressure, servicers redoubled their efforts to place borrowers in trial modifications, but a new problem developed: very few trial modifications became permanent. On October 9, 2009, the COP reported that HAMP mortgage modifications continued to underperform the Administration's predictions.[40] As of September 1, 2009, participating servicers had placed 362,348 borrowers in trial modifications, but only 1,711 trial modifications had become permanent.[41]

Research by Oversight Committee Minority staff suggests that some servicers, as a result of the Administration's pressure, placed borrowers in trial modifications without requiring any written proof of their income and debt levels.[42] Many borrowers then failed to provide proper verification after entering trial modifications.

Treasury responded to criticism of HAMP's disappointing results – particularly the extremely low rate of permanent modifications – by announcing a "conversion drive" on November 30, 2009.[43] Additional pressure, Treasury announced, would be put on

[37] *Id.*

[38] Treasury Department Press Release, "Administration, Servicers Commit to Faster Relief for Struggling Homeowners through Loan Modifications," July 29, 2009, *available at* **http://www.financialstability.gov/latest/07282009.html.**

[39] *See, e.g.*, October Servicer Report.

[40] Oversight Report at *passim.*

[41] Oversight Report at 48. The Panel also found the results of other foreclosure mitigation programs to be disappointing: for example, only 95,729 HARP refinancings had been approved – 2 percent of the four to five million homeowners Treasury had originally estimated would be eligible. Oversight Report at 42.

[42] Freddie Mac Senior Vice President Edward Golding admitted to the Congressional Oversight Panel that Treasury permits servicers to grant "no-doc" trial modifications, in which the servicer starts a trial modification based on the borrower's verbal representations about their financial details. *See* Testimony of Michael D. Dudley, Sr. before the Domestic Policy Subcommittee of the House Committee on Oversight and Government Reform, Cleveland, Ohio, Dec. 7, 2009. Information provided to Oversight Committee staff confirms that servicers have been doing exactly that – and then finding that borrowers are unable or unwilling to provide documentation.

[43] Treasury Department, Press Release, "Obama administration [sic] Kicks Off Mortgage Modification Conversion

servicers to convert trial modifications to permanent ones. Servicers would be required to report to the Administration on a daily basis, and Treasury and Fannie Mae staffers would be assigned to serve as "account liaisons" on-site at the servicers' offices. In an interview with *The New York Times*, Assistant Treasury Secretary for Financial Institutions Michael Barr further criticized the servicers: "The banks are not doing a good enough job .... Some of the firms ought to be embarrassed, and they will be."[44] Treasury promised, "Roughly 375,000 of the borrowers who have begun trial modifications since the start of the program are scheduled to convert to permanent modifications by the end of the year."[45]

The conversion drive fell far short of Treasury's projections. At the end of December 2009, 66,465 modifications had become permanent.[46] On December 23, 2009, Treasury ratcheted up the pressure again by forbidding servicers to cancel a trial modification "for any reason other than failure to meet the HAMP property eligibility requirements."[47] This "review period" – during which servicers had to maintain most trial modifications, even if borrowers stopped payments, failed to properly document their income or debts, or reported income or debt that made them ineligible – lasted from December 23, 2009, to January 31, 2010.

The Administration's pressure, and the servicers' redoubled efforts, have not alleviated the foreclosure crisis. Foreclosures rose throughout 2009.[48] Bloomberg's Foreclosure Index rose throughout 2009 and is at a record high.[49] On February 19, 2010, the mortgage industry released data showing that a record proportion of U.S. mortgages were in foreclosure.[50]

Drive," Nov. 30, 2009, *available at* **http://www.treasury.gov/press/releases/tg421.htm** ("Conversion Drive Announcement").

[44] Peter Goodman, "U.S. Will Push Mortgage Firms to Reduce More Loan Payments," *The New York Times*, (Nov. 29, 2009), *available at* **http://www.nytimes.com/2009/11/29/business/economy/29modify.htm**.

[45] Conversion Drive Announcement, Nov. 30, 2009.

[46] Treasury Department, Making Home Affordable Program Servicer Performance Report Through December 2009, Jan. 19, 2010, *available at* **http://www.financialstability.gov/docs/report.pdf** ("December Servicer Report").

[47] *See* Treasury Department Press Release, "Administration Updates Documentation Collection Process and Releases Guidance to Expedite Permanent Modifications," Jan. 28, 2010, *available at* **http://www.financialstability.gov/latest/pr_01282010.html**.

[48] *See* Office of the Comptroller of the Currency and Office of Thrift Supervision, OCC and OTS Mortgage Metrics Report, Third Quarter 2009 (issued Dec. 2009), *available at* **http://files.ots.treas.gov/482114.pdf**, at Table 6 (reporting that foreclosures and other home forfeiture actions in the third quarter of 2009 increased by 13.9% over the previous quarter and 6% over the same quarter in 2008).

[49] *See* Jonathan Hoenig, "The Plan to Stop Foreclosures Has Failed," *Wall Street Journal Smartmoney.com*, Feb. 18, 2010, *available at* **http://www.smartmoney.com/Investing/Economy/The-Plan-to-Stop-Foreclosures-Has-Failed/?hpadref=1** (reporting Bloomberg Foreclosure Index had hit new high at 11.74%).

[50] Julie Haviv, "Mortgages foreclosing, delinquent at 16 percent in Q4," *Washington Post*, Feb. 19, 2010.

HAMP Failure Triggers Bipartisan Criticism; Treasury Hides Crucial Numbers

HAMP has failed. Treasury's most recent servicer performance report discloses about 116,000 permanent modifications at the end of January 2010[51] – less than one-third the number Treasury projected in November, and less than one-thirtieth the number the Administration promised when it announced the program. The media reported widespread disappointment among lawmakers in both parties and housing advocates.[52]

Treasury has responded to criticisms of HAMP by making it harder to track the program's failure. In every servicer performance report through November 2009, Treasury disclosed the cumulative number of borrowers who had applied for mortgage modifications. This number could be compared to the number of permanent modifications to determine HAMP's overall success rate. Many news organizations did so, and their calculations, as of November 2009, showed that only about 1% of borrowers who sought help from HAMP had achieved permanent modifications.[53] In its December 2009 report, Treasury stopped disclosing the number of applicants, making the success rate impossible to calculate.[54] On February 4, 2010, Ranking Member Darrell Issa (R-CA) and Domestic Policy Subcommittee Ranking Member Jim Jordan (R-OH) sent a letter to Treasury Secretary Timothy Geithner requesting that Treasury reinstate the crucial metric. At this writing, Mr. Issa and Mr. Jordan have not received a response from Treasury.

Treasury has also used HAMP statistics in misleading ways. For instance, in November 2009 it announced that HAMP had "helped over 650,000 borrowers,"[55] obscuring the difference between temporary and permanent modifications.

Oversight Committee Democrats have lost patience with Treasury over its handling of HAMP. On January 11, 2010, Domestic Policy Subcommittee Chairman Dennis Kucinich (D-OH), in a letter to Secretary Geithner, criticized Treasury's determination "to insist on an optimistic view of HAMP's performance."[56] Mr. Kucinich did not find the testimony representations of Treasury officials to be credible, and therefore submitted extensive written questions seeking hard numbers describing the performance of HAMP.

---

[51] January Servicer Report.

[52] *See, e.g.*, Renae Merle, "Administration pushed to expand foreclosure-prevention program," *Washington Post*, Feb. 18, 2010; Dawn Kopecki and Theo Francis, "U.S. May Retool Loan Program for Underwater Borrowers," *Business Week*, Jan. 27, 2010; Shahien Nasiripour, "Obama Foreclosure Program Shows Slight Gains, Though Troubling Trends Remain," *Huffington Post*, Feb. 18, 2010, *available at* http://www.huffingtonpost.com/2010/02/18/obama-foreclosure-program_n_466676.html (quoting industry analyst: "I don't think [HAMP] is going to stop the large numbers of foreclosures coming onto the market in the next few quarters … [HAMP] has been helpful on the margins in the sense that something is better than nothing").

[53] *See, e.g.*, Daniel Indiviglio, "1% Success Rate for Obama Administration Mortgage Modification Program," *The AtlanticBusiness Channel*, Dec. 11, 2009, *available at* **http://business.theatlantic.com/2009/12/1_success_rate_for_obama_administration_mortgage_modification_program.php**.

[54] December Servicer Report.

[55] Conversion Drive Announcement, Nov. 30, 2009.

[56] Letter from Dennis Kucinich to Timothy Geithner, Jan. 11, 2010.

As of this writing, Mr. Kucinich had not received a response from Treasury. Chairman Edolphus Towns joined Kucinich's criticisms on February 4, 2010, when he requested a voluntary production of documents from Treasury to assist the Committee's investigation of HAMP's failure.[57] As of this writing, Chairman Towns has not received documents from Treasury.

EXPLAINING HAMP'S POOR RESULTS

Research by former Fannie Mae Chief Credit Officer Edward Pinto suggests that the Administration will fall far short of its goal of modifying the loans of three to four million borrowers.[58] Of the 50,000 trial modifications in progress as of May 31, 2009, only about 2.5% had entered permanent status four months later.[59] Informed estimates suggest that half or fewer of the current 500,000 borrowers on trial modifications will successfully submit the required documentation and prove to be qualified.[60] Moreover, slightly more than half of qualified borrowers are expected to either fail to make all payments during their trial period or re-default after permanent modification.[61] At these success rates, the Administration would need to put 12 to 22 million loans into trial modifications in order to prevent 3 to 4 million foreclosures. Since it can be expected that "prime candidates" for modifications will get them first,[62] the Administration's goal appears mathematically impossible.

The COP pointed out that HAMP, like the Federal government's other mortgage mitigation programs, was "designed to address the foreclosure crisis as it was understood in early 2009."[63] HAMP was designed to assist homeowners whose payments have increased – perhaps due to rate resets on exotic mortgage products – but who are still employed and able to make payments. However, 31 percent of zero is still zero; HAMP cannot assist borrowers who are unemployed with no income.[64] In other words, since unemployment, instead of ballooning mortgage payments, is now driving foreclosures, HAMP modifications may not be available to most distressed borrowers.

Rising unemployment, however, does not fully explain HAMP's deplorable conversion rate from trial modifications to permanent modifications. The evidence suggests that

---

[57] Letter from Edolphus Towns to Timothy Geithner, Feb. 4, 2010.

[58] *See* Joe Weisenthal, "Edward Pinto: The Government's Loan Modification Numbers Are A Total Sham," *The Business Insider: The Money Game*, Oct. 25, 2009, *available at* **http://www.businessinsider.com/edward-pinto-the-governments-loan-modification-numbers-are-a-total-sham-2009-10**.

[59] *See id.*

[60] *See id.*

[61] *See id.*

[62] *See* Oversight Report at 95.

[63] Oversight Report at 103.

[64] Unemployment benefits are counted as income for the purposes of HAMP calculations. *See, e.g.*, Department of Labor, Press Release, "DOL Tool Projects UI Income to Modify Home Loans," Oct. 23, 2009 (reporting collaborative effort between Labor, Treasury, Fannie Mae, Freddie Mac, Federal Reserve, and Hope Now Alliance to create unemployment benefit estimation tool to allow mortgage companies to project unemployment insurance benefits for loan modification purposes).

servicers have granted trial modifications to borrowers who do not qualify for them, based solely on the borrowers' verbal representations about their income and assets. Indeed, a Cleveland city council member testified at the Domestic Policy Subcommittee's December 7, 2009 field hearing that some borrowers were treating HAMP as a temporary solution, using trial modifications to stave off foreclosure for just a few months.[65]

On January 28, 2010, Treasury announced that it would now require servicers to obtain key documentation before starting trial modifications.[66]

BOSTON FED EXPLAINS WHY SERVICERS ARE RELUCTANT TO RENEGOTIATE MORTGAGES

On July 6, 2009, the Federal Reserve Bank of Boston published a paper entitled *Why Don't Lenders Renegotiate More Home Mortgages? Redefaults, Self-Cures, and Securitization*.[67] The paper noted that Federal anti-foreclosure efforts, notably Hope for Homeowners and HAMP, had focused on renegotiation:

> The appeal of renegotiation to policymakers is simple to understand. If a lender makes a concession to a borrower by, for example, reducing the principal balance on the loan, it can prevent a foreclosure. This is clearly a good outcome for the borrower, and possibly good for society as well. *But the key to the appeal of renegotiation is the belief that it can also benefit the lender*, as the lender loses money only if the reduction in the value of the loan exceeds the loss the lender would sustain in a foreclosure. In short, according to proponents, renegotiation of home mortgages is a type of public policy holy grail, in that it helps both borrowers and lenders at little or no cost to the government.[68]

If that logic were correct, the Boston Fed reasoned, "lenders should find renegotiation attractive, even in the absence of government prodding." But the Boston Fed's examination of a large sample of troubled residential mortgages[69] demonstrated that "lenders rarely negotiate .... Fewer than 3 percent of the seriously delinquent borrowers in our sample received a concessionary modification in the year following the first serious delinquency."[70]

---

[65] *See* Testimony of Michael D. Dudley, Sr. before the Domestic Policy Subcommittee of the House Committee on Oversight and Government Reform, Cleveland, Ohio, Dec. 7, 2009.

[66] Treasury Department Press Release, "Administration Updates Documentation Collection Process and Releases Guidance to Expedite Permanent Modifications," Jan. 28, 2010, *available at* http://www.financialstability.gov/latest/pr_01282010.html.

[67] Manuel Adelino, Krisopher Gerardi, and Paul S. Willen, *Why Don't Lenders Renegotiate More Home Mortgages? Redefaults, Self-Cures, and Securitization*, Federal Reserve Bank of Boston Public Policy Discussion Paper No. 09-4, *available at* **http://www.bos.frb.org/economic/ppdp/2009/ppdp0904.pdf** (hereinafter "Boston Fed Paper").

[68] Boston Fed Paper at 2.

[69] The Boston Fed used a dataset constructed by Lender Processing Services (LPS) that comprised approximately 60 percent of the U.S. mortgage market from the beginning of 2007 through the end of 2008 (though calculations were performed using samples, then confirmed using other samples, because of computational capacity).

[70] Boston Fed Paper at 3.

Why such a low renegotiation rate? The Boston Fed considered and rejected the hypothesis that widespread mortgage securitization is responsible for the phenomenon. Its empirical analysis found that the difference in renegotiation rates between loans owned by private securitization trusts and "portfolio" loans owned directly by servicers and not subject to securitization was not statistically significant.

Instead, the Boston Fed argued, low renegotiation rates are due to "a very mundane explanation: lenders expect to recover more from foreclosure than from a modified loan."

> The problem [with renegotiation, from a lender's standpoint] is that renegotiation exposes lenders to two types of risks that can dramatically increase its cost. The first is what we will call "self-cure" risk ... [M]ore than 30 percent of seriously delinquent borrowers [in the Boston Fed's sample of troubled mortgages] "cure" [return their loan to current status] without receiving a modification; if taken at face value, this means that, in expectation, 30 percent of the money spent on a given modification is wasted. The second cost comes from borrowers who redefault; our results show that a large fraction of borrowers who receive modifications end up back in serious delinquency within six months. For them, the lender has simply postponed foreclosure; in a world with rapidly falling house prices, the lender will now recover even less in foreclosure.[71]

The Boston Fed noted that proponents of government-sponsored mortgage modification programs frequently take redefault risk into account, but ignore self-cure risk. It concluded, "[O]ne cannot evaluate a modification by simply comparing the reduction in the interest rate on the loan or in the principal balance with the expected loss in foreclosure."[72] The true costs and benefits of a modification must take into account the risk that the modification might prove to be either unnecessary (self-cure risk) or futile (redefault risk).

The COP admitted, "The economics of servicing are still not fully understood, and this presents a challenge for any attempt to craft an incentive-based modification program."[73] HAMP represents a very clumsy attempt to adjust the incentives facing servicers. Clearly, Treasury's origination incentive payment of $1,000 and annual payments of $1,000 for each modified loan are numbers pulled from a hat.

---

[71] Boston Fed Paper at 7.

[72] *Id.*

[73] Oversight Report at 69.

HAMP FAILS TO HELP, AND MAY ACTUALLY HARM, THOUSANDS OF HOMEOWNERS

At the beginning of January 2010, the New York Times reported that some economists had begun to argue HAMP had "done more harm than good."[74] The Times article explained:

> Critics increasingly argue that the program ... has raised false hopes among people who simply cannot afford their homes. As a result, desperate homeowners have sent payments to banks in often-futile efforts to keep their homes, which some see as wasting dollars they could have saved in preparation for moving to cheaper rental residences. Some borrowers have seen their credit tarnished while falsely assuming that loan modifications involved no negative reports to credit agencies.[75]

The Administration's one-size-fits-all approach to mortgage modification might exacerbate the danger of granting modifications to borrowers who will not benefit from them. For example, Treasury's secret NPV test takes into account an assumed redefault rate in comparing the expected cash flows of a modified and a non-modified mortgage.[76] "Changes in redefault rates," the COP pointed out, "will obviously affect the NPV calculus."[77] If the secret NPV test underestimates the redefault rate, servicers will grant too many futile modifications. In short, HAMP appears to be incentivizing behavior that is neither in servicers' interests, or, in the long term interests of borrowers who end up defaulting anyway.

Treasury's most recent servicer performance report suggests that a large number of the borrowers currently in trial modifications will fail to achieve permanent modifications and eventually default. As of the end of January 2010, 830,438 trial modifications were active, while 60,476 trial modifications had, so far, been canceled without maturing into permanent modifications.[78] This report coincided with the last day of Treasury's mandatory "review period;" between December 23, 2009, and January 31, 2010, servicers were banned from canceling most trial modifications for any reason except "failure to meet the HAMP property eligibility requirements."[79] Judging from previous reporting periods, it is reasonable to expect that a large proportion of the 830,438 active trial modifications did not qualify and were canceled after the "review period" expired.

Moreover, the economists quoted in the *Times* article also charged that HAMP might be prolonging the housing crisis and delaying the eventual recovery:

---

[74] Peter Goodman, "U.S. Loan Effort is Seen as Adding to Housing Woes," *New York Times*, Jan. 1, 2010.

[75] *Id.*

[76] Oversight Report at 47.

[77] *Id.*

[78] January Servicer Report.

[79] *See* Treasury Department Press Release, "Administration Updates Documentation Collection Process and Releases Guidance to Expedite Permanent Modifications," Jan. 28, 2010, *available at* http://www.financialstability.gov/latest/pr_01282010.html.

> "The choice we appear to be making is trying to modify our way out of this, which has the effect of lengthening the crisis," said Kevin Katari, managing member of Watershed Asset Management … "We have simply slowed the foreclosure pipeline, with people staying in houses they are ultimately not going to be able to afford anyway. Mr. Katari contends that banks have been using temporary loan modifications under the Obama plan as justification to avoid an honest accounting of the mortgage losses still on their books. Only after banks are forced to acknowledge losses and the real estate market absorbs a now pent-up surge of foreclosed properties will housing prices drop to levels at which enough Americans can afford to buy, he argues.[80]

In other words, although home prices have dropped, they are still too high for normal activity in the market to resume. Moreover, it appears that the danger of another banking crisis brought on by mortgage-backed securities remains. As Kevin Williamson put it in *National Review*:

> There are two main dangers proceeding from the Obama Administration's attempts to intervene in the mortgage market as a way to prop up housing prices: The first is that the program won't work, and the second is that it will. If the program fails, it will, like the stimulus … simply represent the frittering away of another mile-high round of money on political flimflam that does little to benefit most Americans and nothing to address the fundamental problems plaguing our economy. If it works, it will represent a victory for the nefarious forces of C.R.I.B. – the Committee to Re-Inflate the Bubble – setting the economy up for a vicious second round of financial crisis with its roots in the housing market.[81]

HAMP might harm the housing market in other ways, as well. First, widespread HAMP modifications might add more uncertainty to the market for mortgage-backed securities and have a negative impact on the value of such securities. The result, of course, would be more expensive mortgages for consumers. Second, as suggested above, HAMP may also create a new class of misunderstood, complex mortgage products that further expose the American economy to systemic risk.

REDUCING PRINCIPAL FOR DISTRESSED HOMEOWNERS WOULD BE PROBLEMATIC

In the wake of HAMP's failure to assist homeowners in the promised numbers, some Democrats and market observers have called for the federal government to directly pay to reduce the principal of homeowners' loans. Such efforts would be dubious for several reasons. First, writing down the value of a loan, in most cases, "will not provide enough of a decrease to cushion the kinds of income decline that push people into foreclosure."[82]

---

[80] *Id.*

[81] Kevin Williamson, "Smoking HAMP: On housing, Obama's successes are as dangerous as his failures," *National Review*, Jan. 25, 2010.

[82] Megan McArdle, "Mortgage Modifications: Help or Hindrance?" *The Atlantic Business*, Jan. 4, 2010, *available at* http://business.theatlantic.com/2010/01/mortgage_modifications_help_or_hindrance.php.

Second, "Treasury Department officials have worried that if some borrowers get their principals reduced, even borrowers who aren't behind will stop paying unless they get the same break."[83] Third, reducing principal on a large scale might hurt U.S. banks' liquidity and solvency and trigger another banking crisis. The *Wall Street Journal* reports:

> U.S. banks, thrifts and credit unions held about $952 billion of home equity and other junior-lien mortgages as of Sept. 30, according to Federal Reserve data. If the principal owed on first mortgages is reduced, the institutions probably would have to write down or write off many of the second-lien loans, potentially sapping their capital.[84]

Without a broad-based economic recovery and millions of new jobs, it is difficult to see how principal reduction could help save a large number of homes from foreclosure.

[83] James Hagerty, "Mortgage Mess Breeds Unlikely Allies," *The Wall Street Journal*, Feb. 9, 2010.

[84] *Id.*

About the Committee

The Committee on Oversight and Government Reform is the main investigative committee in the U.S. House of Representatives. It has authority to investigate the subjects within the Committee's legislative jurisdiction as well as "any matter" within the jurisdiction of the other standing House Committees. The Committee's mandate is to investigate and expose waste, fraud and abuse.

Contacting the Committee

For press inquiries:

Frederick R. Hill, Director of Communications
(202) 225-0037

For general inquires or to report waste, fraud or abuse:

Phone: (202) 225-5074
Fax: (202) 225-3974
http://republicans.oversight.house.gov

Committee on Oversight and Government Reform
Ranking Member, Darrell Issa (CA-49)

B350A Rayburn House Office Building
Washington, DC 20515
Phone: (202) 225-5074 • Fax: (202) 225-3974

Mr. JORDAN. Yield back.

Mr. KUCINICH. The Chair recognizes Mr. Cummings from Maryland.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. Mr. Chairman, I thank you for holding this hearing. In my 14 years in Congress, I've devoted more energy to addressing the current foreclosure crisis than almost any other issue facing our Nation. Because of that I thank you for holding this hearing, as well as the field hearings in Atlanta and Cleveland, for using the Domestic Policy Subcommittee to shine a light on this very tragic problem.

I also thank all of today's witnesses for joining us. Your input is crucial to our developing real solutions for real people who are suffering real problems.

More than a year ago I decided that we were not doing enough to address foreclosures in my district in Baltimore, so I hired someone in my district office to work only on helping our constituents keep their houses. Most of us only have 20 employees. That's between Washington and the District. And I then soon discovered I needed another one. So literally 10 percent of my staff only deal with foreclosures keeping people in their houses.

After I hired the first one, I decided that there was still more that we could do. We figured out that the most common barriers to mortgage modifications were lost paperwork, understaffed lender call centers, and lender and servicer denials without any explanation. And another one was just the idea that sometimes when they got ahold of the lender, the lender just simply did not take the time to work with the borrower. And I want to say that it was not always in a good-faith manner, but I won't go that far.

But one thing that we did discover is that once my staff member would sit down a lot of times and go over the paperwork with the borrower, we discovered that, say, about 80 percent of those cases, they were able to get a modification.

So this past Saturday we held our third foreclosure prevention workshop in Baltimore. Over the last year these events have brought together some 3,000 people from my district, and, by the way, from all over the country. We had over 25 lenders, and created the opportunity to keep hundreds, if not thousands, of families in their homes. We discovered something as simple as a face-to-face meeting—this is not rocket scientist stuff—a face-to-face meeting does not seem that important, but for the men and women who approached me on Saturday literally in tears after negotiating a modification, it meant everything. But they are just for whom the options are severely limited; they are unemployed.

We can do a lot of good with President Obama's mortgage modification infrastructure. I watched it happen on Saturday in Baltimore. But the blight of 14.8 million unemployed Americans demand that we do even more, and more is these three things. First, we need mortgage assistance; we need mortgage assistance whether through grants or loans for unemployed persons while they continue to look for work. We managed to get $3 billion into the Wall Street Reform and Consumer Protection Act, but that funding is far from a done deal.

I was pleased that the President's recently announced 4HM program, Help for the Hardest-Hit Housing Markets, will include assistance to the unemployed, as well as those who are underwater in their mortgages. While I would have hoped to see the program implemented in more than just the five hardest-hit housing markets, we have to start somewhere.

The second thing we need to do is we need a real jobs package. The Senate's package yesterday of the $15 billion so-called jobs bill is better than nothing, but it is not nearly enough, and it's anticipated we will move on that in the House this week.

Finally, we need job-training programs that allow workers to adapt and improve. As CBO Director Douglas Elmendorf said on Tuesday to another committee which I sit on, the Joint Economic Committee, so many of the lost jobs simply are not coming back. New jobs will come from new firms who embrace new technology and innovation. Worker training, whether through community college career centers or traditional 4-year schools, must be part of a long-term solution.

Clearly we need a comprehensive strategy to help the unemployed, one that should include the elements I just mentioned, but today's task, foreclosure prevention, is the first and biggest element of that solution. And so, Mr. Chairman, I look forward to the testimony. I want to thank the witnesses. And with that I yield back.

[The prepared statement of Hon. Elijah E. Cummings follows:]

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM – DOMESTIC POLICY SUBCOMMITTEE

"Foreclosure Continue: What Needs to Change in the Administration's Response"

February 25, 2010 – 2:00 p.m.

Room 2154 Rayburn House Office Building

Statement of Congressman Elijah E. Cummings

Thank you, Mr. Chairman.

In my 14 years in Congress, I have devoted more energy to addressing the current foreclosure crisis than almost any other issue facing our nation.

Because of that, I thank you for holding this hearing, as well as the field hearings in Atlanta and Cleveland, and for using the Domestic Policy subcommittee to shine a light on this tragic problem.

I also thank all of today's witnesses for joining us – your input is crucial to our developing real solutions.

More than a year ago, I decided that we were not doing enough to address foreclosures in Baltimore.

So I hired someone in my district office, to work *only* on helping our constituents keep their homes.

After hiring her, I decided that we could still do more.

We figured out that the most common barriers to mortgage modifications - lost paperwork, understaffed lender call centers, and lender and servicer denials without any explanation – could be addressed by face-to-face meetings between borrowers and lenders.

So, this past Saturday, we held our *third* foreclosure prevention workshop in Baltimore. Over the last year, these three events have brought together *three thousand* people and over 25 lenders, and created the opportunity to keep hundreds, if not thousands of families, in their homes.

A face-to-face meeting does not seem that important, but for the men and women who approached me on Saturday in tears, after negotiating a modification, it meant everything.

But there are others for whom the options are severely limited – the unemployed.

We can do a lot of good with President Obama's mortgage modification infrastructure – I watched it happen on Saturday in Baltimore; but the plight of ***14.8 million unemployed Americans*** demands that we do more.

And "more" is three things:

First, we need mortgage assistance, whether through grants or loans, for the unemployed while they continue to look for work.

We managed to get *three billion dollars* in the Wall Street Reform and Consumer Protection Act, but that funding is far from a done deal.

I was pleased that the President's recently announced 4HM program - Help for the Hardest Hit Housing Markets, will include assistance to the unemployed, as well as those who are underwater in their mortgages.

While I would have hoped to see the program implemented in more than just the five hardest hit housing markets, we have to start somewhere.

Second, we need a real jobs package. The Senate's passage yesterday of a $15 billion jobs bill is better than nothing, but it is not nearly enough.

Finally, we need job training programs that allow workers to adapt and improve.

As CBO Director Douglas Elmendorf said on Tuesday to the Joint Economic Committee, so many of the lost jobs are not coming back.

New jobs will come from new firms, who embrace new technology.

Worker training – whether through community colleges, career centers, or traditional four-year schools – must be part of the long-term solution.

Clearly, we need a comprehensive strategy to help the unemployed – one that should include the elements I just mentioned. But today's task – foreclosure prevention – is the first, and biggest, element of that solution.

I look forward to the testimony of all our witnesses, and yield back the remainder of my time.

###

Mr. KUCINICH. The Chair recognizes Mr. Turner of Ohio.

Mr. TURNER. Thank you, Chairman Kucinich. I want to thank you for your leadership and efforts in the areas of the mortgage foreclosure crisis, and also the issues of how you've looked to protect families who are in Ohio as we struggle with how to address the issue of the mortgage foreclosure crisis and its effects on our neighborhoods. I want to thank you and the ranking member for holding this hearing today to focus on the effectiveness of the administration's Home Affordable Modification Program in helping struggling families facing foreclosure stay in their homes.

My congressional district, as well as the entire State of Ohio, has been significantly impacted by the current foreclosure crisis. In the counties located within Ohio's Third Congressional District, there have been over 6,000 housing foreclosures reported in 2008 alone.

While Congress has made attempts to address the root causes of the housing crisis, we need to continue to improve Federal housing policies in order to find new solutions to address these challenges. We must conduct a comprehensive reevaluation of our Federal, State and local housing policies in order to stabilize the housing market, keep people in their homes and help displaced families return to their homes.

To better understand how the greater Dayton area has been particularly affected by the current housing crisis, in August I convened a forum in coordination with the Northeast-Midwest Institute consisting of two panels to examine the impact of the housing crisis in our community and to discuss the Federal response. The Northeast-Midwest Institute is a Washington, DC-based nonprofit, nonpartisan research organization dedicated to economic vitality, environmental quality and regional quality for Northeast and Midwest States.

The first panel was composed of Miami Valley leaders who discussed the effects of the housing crisis in the region. We have in attendance today Jim McCarthy, who is in the back of the room, from the Miami Valley Fair Housing Center, who has previously testified before this committee on the issues of the effects in Miami Valley. The second panel was composed of Federal policy experts who discussed the Federal response to this crisis. Both panels highlighted recent successes and identified some of the serious challenges we face as we continue to determine the appropriate role of Federal Government addressing the housing issues in our region.

The panelists also provided considerations that address the current legal and regulatory framework governing the housing and mortgage-lending markets; the prevalence of fraudulent mortgage-lending practices; the effectiveness of certain housing tax credits, grants and programs; as well as providing a complete reevaluation of Federal housing policies and their impact on communities across the Nation.

Today I present the report that summarizes a number of the policy considerations based on the individual testimonies of discussions held at the housing forum that may assist us in helping families stay in their homes and stabilize our neighborhoods. The report, entitled, "The Impact of the Housing Crisis on Local Communities and Federal Response," discusses preventing predatory lending by increasing financial product transparency and preventing the issuance of inappropriate loan products, streamlining the mortgage-servicing industry, standardizing housing counseling and loan-modification regulations, improving the neighborhood stabilization program, and building local organizational capacity in distressed communities, and rethinking the impact of low-income housing tax credits on older cities.

The report also provides Congress, government officials and housing industry with a thorough understanding of the implications of Federal housing policy's effects on cities like Dayton.

With that, I would like to offer the report, without objection, for the record.

Mr. KUCINICH. Without objection, so ordered.

Mr. TURNER. Mr. Chairman I thank you your support for that, and I also thank you for your advocacy on behalf of Ohio within this programs that's the subject matter of this hearing. Thank you.

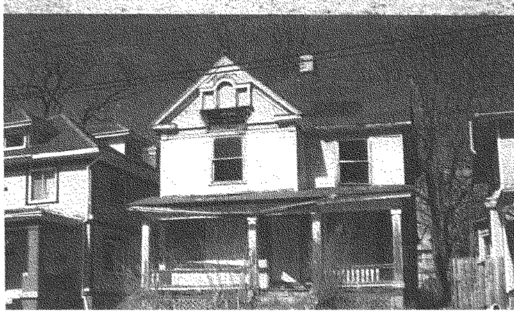
[The information referred to follows:]

Follow-up Report & Policy Considerations

From the Congressional Forum Convened by Congressman Michael Turner

THE IMPACT OF THE HOUSING CRISIS ON LOCAL COMMUNITIES AND THE FEDERAL RESPONSE

Entered in Record by Congressman Mike Turner 02/25/10 DP Hearing



Congressman Michael Turner represents Ohio's 3rd Congressional District and co-chairs the Revitalizing Older Cities Congressional Task Force.

The Forum and this report were done in coordination with the Northeast-Midwest Institute and the Northeast-Midwest Congressional Coalition. The event was held on August 26, 2009, in Dayton, OH.

Congressional Forum:
The impact of the housing crisis on local communities and the federal response
August 26, 2009 Dayton, OH

Convened by
Congressman Michael R. Turner
Co-Chair of the Revitalizing Older Cities Congressional Task Force
IN COORDINATION WITH THE
Northeast-Midwest Institute
AND THE
Northeast-Midwest Congressional Coalition

Follow-up Report:
Analysis with Policy Considerations

Participant Biographies

Written Remarks of Participants

Contents

Follow-up Report: Analysis with Policy Considerations

Overview

The current housing crisis has played a major role in destabilizing the foundation of our nation's economy. The influx of toxic mortgage loans, predatory lending practices, a lack of loan modification standards and concerns with certain federal housing polices have had a direct impact on millions of homeowners and communities across the country. Increasing home foreclosures and falling housing prices have led many property owners to walk away from their homes, leaving many communities with a large number of abandoned properties, rising crime rates, and deteriorating neighborhoods.

According to Alan Mallach, a Non-resident Senior Fellow at the Brookings Institution in Washington, DC, nearly one out of five housing units is vacant in Dayton, Ohio. In addition, cities like Dayton with economies based in manufacturing have seen a disproportionate loss in jobs and sharp declines in their populations, all of which has exacerbated the impact of the current housing crisis.

As Congress searches for solutions and legislative action to address the current crisis, a forum was convened in Dayton, in coordination with the Northeast-Midwest Institute on the impact of the housing crisis on local communities and the federal responses to this crisis. Nine panelists, consisting of both local Miami Valley housing leaders and federal policy experts, provided testimony and a comprehensive analysis of the impact of the current crisis. The panelists were Amy Radachi, Beth Deutscher, Jim McCarthy, Kiya Patrick, Dean Lovelace, Sarah McGraw Greenberg, Alan Mallach, David Hehman, and Jim Cunningham.

The forum highlighted areas where there has been improvement and areas that remain challenges for the future. The panelists also provided recommendations to Congress that address the current legal and regulatory framework governing the housing and mortgage lending markets; the prevalence of fraudulent industry practices; the effectiveness of certain housing tax credits, grants, and programs; as well as providing a complete reevaluation of federal housing policies and their impact on communities across the nation.

The purpose of this housing forum was to provide Congress, government officials, and the housing industry with a thorough understanding of the implications of federal housing policy on local communities like Dayton and provide creative solutions that address many of these challenges. This report brings together both local and federal policy perspectives on the current housing crisis and lays out clear and innovative strategies for how the federal government can assist these communities. In large part, the health of our nation's economy is largely tied to the stability of the housing markets and the strength of our local economies. Only through the employment of effective housing policies will the nation be able to recover from the current recession and begin restoring the strong and vibrant communities which are essential to our nation's economic strength.

Summary of Federal Housing Policy Considerations

The following report will summarize a number of policy considerations based on the individual testimonies and discussions held at the housing forum into broad based themes consisting of the following: preventing predatory lending by increasing financial product transparency and preventing the issuance of inappropriate loan products; streamlining the mortgage servicing industry; standardizing housing counseling and loan modification regulations; improving the Neighborhood Stabilization Program (NSP) and building local organizational capacity in distressed communities; and rethinking the impact of the low-income housing tax credit on older cities.

➢ ***Preventing Predatory Lending by Increasing Financial Product Transparency and Preventing the Issuance of Inappropriate Loan Products:***

This panel found that preventing the issuance of inappropriate loan products for borrowers and increasing financial product transparency are needed to avert another foreclosure crisis. Unfortunately, many homeowners throughout the Miami Valley have found themselves with predatory loan products and are now facing foreclosure. While many organizations like the HomeOwnership Center and the Miami Valley Fair Housing Center continue to provide counseling, education, and legal intervention to victims of these predatory lending practices, additional resources are still needed to address the growing number of homeowners who need support. According to Jim McCarthy, President and CEO of the Miami Valley Fair Housing Center, Inc., "until 2008 there were literally no resources available from the federal government to do anything about predatory lending or its resulting foreclosures." He said that in 2008 his organization provided assistance to 353 families in the region, despite the fact that there were 5, 194 mortgage foreclosures filed during this same period.

While many lenders have responded to the current housing crisis by making it more difficult for home buyers to refinance or qualify for a loan, there are presently no federal regulations in place that would strengthen underwriting standards and limit riskier financial products from entering the marketplace. Even the TARP legislation that was intended to provide relief to the banking industry did nothing to preclude the issuance of these kinds of loans. Only through effective loan issuance regulations and financial product transparency will the housing sector fully recover from the current crisis. Congress needs to develop a comprehensive strategy for insuring that every American has the necessary information to make informed decisions about loan products so that borrowers receive loans that are most suited to their needs.

Policy Considerations:

1) Create mechanisms for limiting riskier financial products from entering the marketplace. This could be accomplished through the creation of an agency that prevents predatory lending and the selling of financial products that could be harmful to consumers (Source: Jim McCarthy).

2) Assist in identifying victims of predatory and fair housing/ fair lending issues and provide additional funding for intervention and rescue loans that would help borrowers prepare for a loan modification or refinance into a better loan product (Source: Beth Deutscher and David Hehman).

3) Enact legislation and continue to fund programs that protect consumers from exposure to "mortgage rescue" scams that are designed to take advantage of at-risk homeowners (Source: Beth Deutscher and Sarah Greenberg).

4) Institute a financial incentive or requirement for all first-time homebuyers to complete homeownership education before they receive a loan or refinance their existing loan. This education requirement should include information concerning mortgage financing, affordability, budgeting, credit, home selection, working with Realtors, purchase contracts, home inspections, closing, the responsibilities of homeownership, fair housing, foreclosure prevention, avoiding predatory lending, financial literacy training, down payment assistance, reverse mortgage counseling, and additional information on other local housing initiatives that are offered. This is necessary for ensuring that borrowers receive quality training and guidance as they navigate through the mortgage and home purchase process (Source: Beth Deutscher).

5) Recognize that currently there is no systematic way to challenge predatory lending cases nor has the issue of predatory lending been effectively addressed. While limited counseling services are offered to victims of predatory lending and those homeowners facing foreclosure, the federal government has only provided limited resources to address this issue (Source: Jim McCarthy).

6) Improve lender underwriting requirement standards so that only reasonable and responsible loans are issued. A return to irresponsible loan underwriting standards in the future will likely have a negative effect on the recovery of the housing market (Source: Kiya Patrick and Beth Deutscher).

7) Require loan officers to go through an educational program about predatory lending rules and regulation and be issued a federal license to issue loans (Source: Diane DeVaul).

8) Prohibit property owners from refinancing into new loans where the value of the loan exceeds the value of the property (Source: Dean Lovelace).

9) Simplify home mortgage closing documents and disclosure forms. These forms should be clearer and more concise so that the borrower understands the regulations and implications of purchasing or refinancing a home (Source: David Hehman).

10) Provide additional funding and resources for the historically underfunded and underutilized Fair Housing Initiatives Program (FHIP) at the Department of Housing and Urban Development to address the country's pressing housing segregation issues (Source: Jim McCarthy).

- ***Streamlining Mortgage Servicing Industry and Procedures:***

The panel found that the Obama Administration has attempted to mitigate the foreclosure crisis through its Making Home Affordable Program, announced in spring 2009, which is run through the Department of Treasury. The program does not adequately address the crisis. Making Home Affordable seeks to prevent foreclosures by working with private industry to offer affordable loan refinances and affordable loan modifications. Unfortunately, this federal program is too small to address the growing foreclosure crisis. The Home Affordable Modification Program (HAMP), which offers incentives to loan services and investors to offer borrowers loan modification, will only benefit an estimated 3 to 4 million people, while the Center for Responsible Lending predicts 9 million foreclosures in the next three years.

Housing advocates report a lack of cooperation on the part of loan servicers who are misinforming consumers, and a lack of transparency by servicers and the government that makes it difficult to determine why servicers have refused to modify some borrowers' loans. Often housing counselors find little consistency with no clear justification for how these loan servicers make their decisions in loan modifications or mortgage refinancing. According to Beth Deutscher at the HomeOwnership Center of Greater Dayton, it can take anywhere from three to six months just to hear back from a servicer regarding a loan modification request. Meanwhile, the homeowner is becoming further and further behind on their payments, thus making it even more difficult to come to any agreement. It is clear that polices that work to increase mortgage servicer performance are needed to address the abundant number of homeowners facing foreclosure.

Treasury must increase HAMP's transparency by providing applicants with reasons for denial, and also must make public its measurements used to evaluate whether borrowers qualify for the program. Additionally, Treasury must continue to collect data about applications received by all participating servicers, including date on race, gender, national origin, and the outcome of applications. It must make these data available to the public in a useable way so that academics and advocacy organizations can determine whether or not HAMP is having a disparate impact on African Americans, Latinos, and others.

Policy Considerations:

1) Enact legislation that creates a reasonable and consistent standard of operations for mortgage servicers to improve their job performance and communication between them, borrowers, and housing counselors. These new regulations should have the goal

of increasing the volume of successful loan modifications and workouts (Source: Sarah Greenburg).

2) Draft legislation that reduces the time it takes to undergo a loan modification. Currently, it can take up to several months to get a response about the status of a loan modification agreement. Or, draft legislation that requires mortgage services to respond to loan modifications within a reasonable timeframe (Source: Beth Deutscher).

3) Force mortgage servicers to halt the foreclosure process if a reasonable loan modification plan has been submitted. It is the experience of many loan counselors in the field that there are on average three to six month delays on the responses from servicers regarding loan modification requests. These delays often result in the borrower falling even further behind on their payment schedule and incurring additional fees (Source: Beth Deutscher).

4) Provide regulatory and enforcement mechanisms to improve overall servicer performance within the mortgage servicing industry (Source: Beth Deutscher; Jim McCarthy; and Sarah Greenberg).

5) Make it easier for state and local governments and non-profits to work with the mortgage servicing industry to allow for easier acquisition of abandoned and foreclosed properties (Source: Kiya Patrick).

6) Expand HAMP to cast a broad net with respect to determining which borrowers are eligible for a modification, including giving a second chance to borrowers for whom changes in circumstances (such as unemployment) make their original HAMP loan modification unsustainable (Source: Jim McCarthy).

7) Reduce loan principles on HAMP loans to make them more affordable and make interest rates reductions permanent, not short-term (Source: Jim McCarthy).

- ***Standardizing Housing Counseling and Loan Modification Procedures:***

The panel found that housing counseling and a standardized loan modification process is needed to provide a measure of last resort for homeowners who are in imminent danger of losing their homes, and to help stabilize the current foreclosure crisis. According to Sarah Greenberg, Manager of Community Stabilization Neighborhood Reinvestment Corporation, Congress's foresight in funding the National Foreclosure Mitigation and Counseling program (NFMC) has allowed NeighborWorks to fund and train approximately 1,600 counseling agencies across the country which work, to help homeowners find solutions to their individual problems. David Hehman, President and CEO of the Federal Home Loan Bank of Cincinnati reported that as of June 30, 2009, they had provided more than 800 homeowners with successful loan modifications or counseling services. He claimed these numbers were modest compared to the need, noting that Congress should work to support and expand these practices.

It's important that new mandates require effective communication between the borrower, the servicer, and the investor so that payment plans are in the best interest of everyone involved, including the community as a whole. In most cases, instead of forcing families out of their homes through foreclosure, it is in the best interest of all parties to aggressively work out an effective loan modification. A standardized loan modification process usually mitigates the losses that investors take as a result of foreclosures. James Cunningham, Field Office Director for the Department of Housing and Urban Development (HUD), announced Secretary Donovan's support of the FHA's Home Affordable Modification Program that allows borrowers to seek a loan modification through their current mortgage company.

The benefits of encouraging these modifications extend well beyond the individual homeowner and can help save many of our communities from declining home values and further home abandonment. Simply allowing homes to fall into foreclosure negatively impacts all surrounding properties and can drive down the value of these nearby properties by as much as 9 percent. Establishing an effective standardized loan modification system is important in determining the best interests of all parties involved while at the same time helping to sustain our neighborhoods and keeping families in their homes.

Policy Considerations:

1) Increase and stabilize funding for housing counseling organizations and target rural and linguistically isolated areas. Additional dollars will be needed to fund the National Foreclosure Mitigation and Counseling program through NeighborWorks, as well as other programs (Source: Beth Deutscher; Jim McCarthy; and Sarah Greenberg).

2) Draft policy that effectively mandates that the borrower, servicer, and investor collaborate to work toward a reasonable and sustainable resolution. The panel reported that some servicers are inflexible regarding workable options and such a mandate might help bring everyone to the table, hopefully helping the homeowner save their home and preventing communities from further decay (Source: Beth Deutscher).

3) Establish a standardized loan modification process where troubled and defaulting homeowners can apply for a mortgage under the close scrutiny of all parties involved, a designated trustee, or judge who has expertise in this area, to be granted the authority to modify mortgages on a case-by-case basis (Source: Jim McCarthy).

4) Offer temporary relief grants for families who have a long history of making their payments on time, but have recently had some financial instability due to the current economic conditions. These funds could be used to help these individuals restructure their loans to keep their homes (Source: Jim McCarthy).

5) Consider creating a loan modification program that allows for using the negative equity debt and placing it into a subordinate mortgage where no payments or interest are due on the subordinate debt until the property is sold. This alternative would prevent the borrower from a windfall if home prices eventually rise and instead would aim to allow the homeowner to repay their original debt to the underwriting investors (Source: Sarah Greenburg).

- ***Improving the Neighborhood Stabilization Program (NSP) and Building Local Organizational Capacity in Distressed Communities:***

In response to the current housing and foreclosure crisis, Congress passed H.R. 3221, the Housing and Economic Recovery Act of 2008 that created the new Neighborhood Stabilization Program (NSP). In the first round of NSP funding, HUD allocated $3.92 billion on a formula basis to provide grants to all states and local governments. In the second round, HUD will allocate $1.93 billion on a competitive basis to provide grants to states, local governments, and nonprofit organizations.

In the first round of funding the program allocated federal assistance to neighborhoods that have extremely high concentrations of foreclosed and vacated homes. The NSP reclaims the supply of vacated housing once the property has been foreclosed or abandoned and uses these funds to acquire, resell, or demolish abandoned and foreclosed properties.

According to Kiya Patrick, Community Development Specialist at the Montgomery County Community and Economic Development Office, Montgomery County received almost $6 million in the first round of NSP funding which it used to target neighborhoods needing the infusion of capital to stabilize them and to demolish properties in distressed areas in Montgomery County.

While the panel was pleased about the allocation of NSP funds and supported its continued funding, they believed that there were some changes that needed to be made to make the program more effective. Amy Radachi, President and CEO of Rebuilding Together Dayton, stated that NSP funds should also be used for owner-occupied rehabilitation and performing repairs for low-income homeowners living in areas hardest hit by the housing crisis. By improving the effectiveness of the NSP, this program can continue to be a resource for investing and rebuilding our neighborhoods

Policy Considerations:

1) Support H.R. 3204, legislation that would expand the use of NSP funds for rehabilitating owner-occupied housing for low-income families (Source: Amy Radachi).

2) Maintain a competitive process rather than formula allocations as a major part of the allocation of NSP2 funding in the future. A competitive process provides local

organizations with incentives to build capacity and innovate on best practices to address the needs of the community (Source: Alan Mallach).

3) Continue to provide NSP funding to distressed communities. Allow local jurisdictions to reduce unproductive units through demolition and increase rehabilitation efforts in neighborhoods that have been heavily impacted by vacant properties (Source: Kiya Patrick and Beth Deutscher).

4) Loosen NSP funding restrictions so local governments can have greater flexibility in carrying out comprehensive strategies to deal with foreclosure prevention, market building, and quality of life issues. Currently NSP is too focused on specific property transactions (Source: Sarah Greenberg; Beth Deutscher; and Alan Mallach).

5) Make it easier for local jurisdictions and non-profits to acquire abandoned and foreclosed homes under the NSP (Source: Kiya Patrick).

6) Provide more effective code enforcement and nuisance abatement to minimize the harm abandoned properties do to the neighborhood's quality of life and property values (Source: Alan Mallach).

7) Allow NSP funds to be used to incentivize local communities to invest in capacity, train personnel, and encourage recruitment of larger and more effective community development corporations. While NSP2 provided $50 million to local and national technical assistance providers, the funding is narrow in scope and focused to only meet the technical requirements of the program. Additional funding should be provided for working capital and operating support to nonprofit organizations that are struggling to build capacity in highly distressed areas (Source: Alan Mallach).

8) As NSP is funded through the CDBG process, all recipients of those funds have certain fair housing obligations. Congress should work with HUD to assure that all jurisdictions receiving NSP funds have a current Analysis of Impediments to Fair Housing Choice (AI), which assesses their communities' needs, describes strategies to improve fair housing compliance, implements the strategies, and continues to be updated at least every five years. All properties acquired through foreclosure should be marketed and managed by real estate firms and professionals who have received comprehensive fair housing training (Source: Jim McCarthy).

➢ ***<u>Rethinking the Low-Income Housing Tax Credit and its Impact on Older Cities:</u>***

The panel found that for many older cities like Dayton and throughout the Northeast and Midwest regions of the country there is a surplus of older housing units. Amy Radachi, President and CEO of

Rebuilding Together Dayton testified that Dayton's housing stock is aging with over 86% of it more than 35 years old. In 2005, 6.35% of the housing stock in Dayton was defined by city housing inspectors as in need of major exterior repair. In addition, Alan Mallach, Non-resident Senior Fellow at the Brookings Institution, pointed out that nearly one out of five housing units is vacant in Dayton, Ohio. These statistics illustrate that the Dayton housing market is not strong, the supply for housing is more than the demand, and as a result many of these houses are at risk of becoming abandoned.

These statistics point out that in cities like Dayton, the Low-Income Housing Tax Credit, designed to increase affordable housing units, may actually create more problems than they solve. These cities tend to be shrinking in size and tax credits designed to build additional housing units may actually be further destabilizing these communities, according to Mallach. Mallach suggested that it's time to get away from thinking about affordable housing almost entirely in terms of producing new units and instead develop innovative strategies to address the challenges of making better use of the housing units currently available.

Policy Considerations:

1) Create a "preservation pool option" in the Low-Income Tax Credit that would allow states to make tax credits available to fund programs to improve and upgrade privately owned rental properties at affordable rates. For a fraction of the cost, the federal government could help landlords upgrade their rental properties and face tough sanctions if they do not comply. If these efforts were combined with effective, targeted, and proper code enforcement, implementation of this strategy in Dayton and other cities could improve housing conditions for far more low-income families at less cost (Source: Alan Mallach).

2) Provide tax credits or grants to renovate brownfields (Source: Alan Mallach).

3) Provide tax credits and other incentives to private owners of rental housing units to upgrade the quality and condition of the current housing stock (Source: Alan Mallach).

Biographies of Forum Hosts

Congressman Michael R. Turner- Representing Ohio's 3rd District, Co-Chair of Revitalizing Older Cities Congressional Task Force

Michael R. Turner, Ohio's Third District Representative to the United States Congress since 2003, has a background in community activism with service to not-for-profit groups focusing on urban renewal and historic preservation.

As the two-term Mayor of the City of Dayton, he was a strong proponent of neighborhood revitalization, crime reduction, increased funding for safety forces, economic development and job creation. He created Rehabarama, a private-public partnership to rehabilitate neglected housing in Dayton's historic neighborhoods, which had significant economic impact on the region, and received national awards from the National Trust for Historic Preservation and the U.S. Conference of Mayors.

As Mayor of Dayton, Congressman Turner established a development fund providing more than $19 million in grants for housing and job-producing projects. The development fund sparked investment which resulted in a renaissance of Dayton's downtown, after two decades of decline, including a $130 million arts center, a minor league baseball stadium, river front development, loft and upscale housing, additional corporate headquarters, and redevelopment of a brownfield area into a tool and die business industrial park. Under Mayor Turner's leadership, the City of Dayton had a balanced budget for all eight years of his tenure (having not been balanced for the previous five years), added 54 police officers on the street resulting in a nearly 40 percent reduction in police response time, and closed two adult movie theaters in residential neighborhoods, thus improving the quality of life for Dayton residents.

Congressman Turner has state-wide, national, and international experience. As mayor, he served on the Ohio Governor's Urban Revitalization Task Force, which provided input for urban planning which led to the Clean Ohio Fund, concentrating on brownfield redevelopment and greenspace preservation. On the national level, he co-chaired the Mayors and Bankers Brownfields Task Force for the U.S. Conference of Mayors, testifying before Congress to support grant funding and liability relief to third party brownfield property owners.

In December, 2003, Congressman Turner's urban experience was called upon by then House Speaker Dennis Hastert who appointed him Chairman of the new Saving America's Cities working group. The 24 Member working group was charged with developing goals and principles to help urban America by focusing on economic development issues and encouraging private sector investment in cities.

Congressman Turner is a senior member of the House Armed Services Committee and Ranking Member of the Subcommittee on Strategic Forces, from which he is able to assist Wright-Patterson Air Force Base located in Ohio's Third District. Additionally, his position on the Government Reform Committee and Subcommittee on Domestic Policy allows him to contribute his experience as mayor to government reform.

In the 110th Congress, in addition to his work on these committees Congressman Turner founded and is co-chair of the House Historic Preservation Caucus, the Former Mayors Caucus, and the Real Estate Caucus, as well as serving as Vice Chair of the Urban Caucus.

Diane DeVaul- Director of Policy, Northeast-Midwest Institute

Diane DeVaul is the Northeast-Midwest Institute's Director of Policy and a specialist on energy issues, the regional effects of federal spending, and the importance of innovation as a driver of economic revitalization. Dr. DeVaul manages the Institute's Revitalizing Older Cities Initiative. She previously managed projects focused on accelerating the adoption of energy technologies and modernizing the electric grid with the U.S. Department of Energy, the Oak Ridge National Laboratory, the National Energy Technology Laboratory, and Science Applications International Corporation (SAIC). Her other projects have focused on revitalizing older industrial areas, engaging new partners in development efforts, and directing the Northeast Regional Resource Center for Innovation, one of five U.S. Department of Energy Regional Resource Centers. Her publications include articles that focus on successful models of local economic development. She has published articles in Public Utilities Fortnightly and Issues in Science and Technology, the magazine of the National Academy of Sciences.

DeVaul has organized Congressional field hearings to build an agenda for the House and Senate Manufacturing Task Forces, as well as directing a series of briefings that brought together industry, state and local officials, public utility commissions, and other private sector stakeholders to discuss the barriers and conflicting policies that prevent market penetration of more efficient-energy technologies.

DeVaul was selected to be a member of the North American Working Group that met at Harvard University's John F. Kennedy School of Government to define U.S. policy issues involved in expanding imports of Canadian electricity. She also gave a presentation on those policy issues at the Trinational Energy Policy Workshop at Stanford University and at the International Association of Energy Economists' Annual North American Meeting. Moreover, she delivered a paper, "Post-War Energy Economics: The Urban and Regional Implications," at a Johns Hopkins University symposium.

She previously served as a consultant to the Department of Housing and Urban Development's Office of Community Planning and Development, providing program recommendations for two urban initiatives to the Assistant Secretary.

DeVaul's doctoral dissertation received the Carl Boyd Award for distinguished dissertations from the University of Maryland. She has taught at the University of Maryland, George Mason University, and American University.

Biographies of Experts

Amy Radachi - Executive Director, Rebuilding Together Dayton

Amy has been the Executive Director of Rebuilding Together Dayton since July 1998. She founded the affiliate as a member of Preservation Dayton Inc. in 1996 and served as Board President for three years. She is a consultant with Rebuilding Together's national office's Organizational Development Institute. She served on Rebuilding Together's National Affiliate Council as affiliate liaison to affiliates in Indiana, Ohio, Michigan, Kentucky and West Virginia. She is a graduate of Rebuilding Together University I in 2002 and Rebuilding Together University II in 2004 from the University of Pennsylvania.

She served on the Public Arts Commission and Landmarks Commission for the City of Dayton. She was President of Dayton View Historic Association for four years. She is a 1995 graduate of Neighborhood Leadership Institute. She was named an Outstanding Young Woman in America in 1997. She is a 2002 graduate of Leadership Dayton. She was one of the Ten Top Women of Dayton in 2003. She was also named one of the Dayton Business Journal's Forty Under 40 for 2008.

Prior to being hired as the affiliate's first Executive Director, she worked as a litigation paralegal for ten years at Thompson Hine and the NCR Corporation. She received a degree in Legal Assistance from Ball State University in Muncie, Indiana.

She lives in Dayton View Historic District with her three boys. She is a member of the Rotary Club of Dayton, where she is a member of the Board of Directors for 2009-2011 and is active on the Education and Mentoring Committees. She is a committee chair for the Holy Angels School PTO.

Beth Deutscher- Executive Director, HomeOwnership Center of Greater Dayton

Beth Deutscher is the Executive Director of the HomeOwnership Center of Greater Dayton, a non-profit organization whose mission is to empower Dayton area residents to achieve and sustain homeownership and financial success. She has over 20 years of experience with non-profit work in the areas of homeownership services, financial education, credit counseling, and management of housing programs. Under Beth's leadership, the HomeOwnership Center has helped thousands of individuals and families achieve their housing and financial goals and established a wide range of partnerships with lenders, housing organizations, and government agencies. Beth serves on a number of local, state and national housing boards and committees, including Miami Valley Fair Housing Center, Dayton Fund for Home Rehabilitation, NeighborWorks Ohio Collaborative, and NeighborWorks America's Homeownership Center Advisory Committee. The HomeOwnership Center is a program of St. Mary Development Corporation, a HUD-approved housing counseling agency, and a member of the NeighborWorks network.

Jim McCarthy- President/CEO, Miami Valley Fair Housing Center, Inc.

Jim McCarthy is the President/CEO of the Miami Valley Fair Housing Center, Inc., a non-profit organization with a mission to eliminate housing discrimination and ensure equal housing opportunity for all people in its region. Jim is also the Chair of the Board of Directors the National Fair Housing Alliance based in Washington, DC.

Mr. McCarthy is one of the architects the Predatory Lending Solutions (PLS) project, a pioneering project that addresses the epidemic problem of predatory mortgage lending in the Montgomery County, Ohio area. Mr. McCarthy has secured more than $3.95 million dollars of local funding since 2001 to support the PLS project. The PLS project is a multi-component project developed by the Fair Housing Center and its collaborative partners and has been used by other communities as a model in creating a program to address the problem of predatory lending. Through the PLS project, the Fair Housing Center staff assist residents of Montgomery County by providing outreach and education on the dangers of predatory mortgage lending, and provide intervention and rescue services to those residents who have been victims of predatory mortgage lending.

Mr. McCarthy has worked closely with and presented at seminars and conference organized by Fannie Mae, Freddie Mac, AARP, the National Fair Housing Alliance, the Coalition on Homelessness & Housing in Ohio, the National Association of Counties, and the National Association for County Community & Economic Development. Mr. McCarthy has also testified before the U.S. House of Representatives Committee on Oversight and Government Reform - Subcommittee on Domestic Policy on "Foreclosure, Predatory Mortgage and Payday Lending in America's Cities". Mr. McCarthy is a board member of the Miami Valley In-Ovations, the Montgomery County Family & Children First, Stable Families Outcome Team, a member of the American Society of Public Administrators, and serves as an independent consultant and grant reviewer for the U.S. Department of Health and Human Services - Health Resources and Services Administration (HRSA).

Kiya Patrick- Community Economic Development Specialist, Montgomery County

Kiya Patrick is a Community Development Specialist with Montgomery County and currently manages the Neighborhood Stabilization Program. During her tenure with the Department, she has coordinated the planning and funding of community development projects utilizing a variety of federal funds. Prior to joining the Community Development Office, she has over 13 years of experience in managing Community Programs for the Montgomery County Solid Waste District and Public Health Dayton and Montgomery County. She obtained her Bachelor's degree from the College of Math and Science at Wright State University, and is midway through her certification as a Housing Development Finance Professional with the National Development Council. In her spare time, she enjoys spending time with her husband and two children.

Commissioner Dean Lovelace – City of Dayton

Dean Lovelace is a Commissioner for the City of Dayton serving in his fifth term which runs from 2008 to 2012. Previous terms include 1993-1996; 1996-2000; 2000-2004; and 2004-2008.

Dean is a native of Ford City, Pennsylvania, but has been a Dayton resident since childhood. He and his family lived in the Edgemont neighborhood for 30 years and recently moved to the Madden Hills neighborhood.

Dean is a graduate of Jefferson Township High School. He has an Associate's Degree in Business from Sinclair Community College, a Bachelor's in Business Administration from the University of Dayton, and a

Master's in Applied and Social Economics from Wright State University.
Dean and his wife, Phyllis, have been married for 35 years. They have three children: Leslie, Laeina and Dean Nyerere and two grandchildren, Alexis and Jaden.

In 1983, Dean joined the Strategies for Responsible Development (SRD) office at the University of Dayton as the Director of SRD-Neighborhood Development, now the Raymond L. Fitz Center for Leadership in Community. He is currently the Director of Dayton Civic Scholars Program at the University of Dayton. Dean's works as a Community Leadership Consultant with neighborhood concerns began in the early 70s with the Model Cities program, after which he continued his career as a member of the planning staff of the City of Dayton. Later, he served as the coordinator for the city's Northwest Office of Neighborhood Affairs. Dean was elected to the City Commission in a special election November l7, l993 and re-elected to a four year term in November, l995 and November, 1999.

Dean's community activities are an extensive testimony to his commitment to this city and its people. Below is a partial list of these activities:

- Chair: Dayton Poverty Reduction Forum, Workforce Development Task Force and Earned Income Tax Credit Initiative.
- Chair: Dayton Community Reinvestment Institute
- Member: National City Bank Community Development Advisory Board
- Member: Montgomery County Planning Commission
- Member: Montgomery County EDGE Program
- Member: Montgomery County Solid Waste Advisory Committee and Management Policy Committees (SWAC/SWAMPC)
- Member: Miami Valley Fair Housing Center
- Member: Housing Justice Fund
- Member: Montgomery County Workforce Development Policy Board
- Co-Founder: Ujamaa Nia Food Cooperative
- Co-Founder: Black Leadership Development Program
- Co-Founder: Dayton Dialogue for Race Relations (DDRR)
- Past Member: Goodwill Board
- Past Member: Christmas in April-Dayton
- Past Member: CityFolk
- Past Member: Montgomery County Historical Society
- Past Chair: West Montgomery County Food Program
- Past Chairman: Dayton-Montgomery County Rainbow Coalition and Co-Chair of the Ohio Rainbow Coalition
- Past President and Current Member: Edgemont Neighborhood Coalition, Inc. and Solar Garden Project

Dean has traveled to Augsburg, Germany, Oiso, Japan and Holon, Israel as part of the City of Dayton Sister City's Program. He has participated in Race Relations Conferences in Caux, Switzerland and Durban, South Africa e.g., Initiatives of Change and the World Conference Against Racism (University of Dayton NGO delegate). Dean's key legislative initiatives include:

- Poverty Reduction (1998)
- Living Wage and Earned Income Tax Credit (1998)
- Anti-Predatory Lending (2001)
- Race Relations Resolutions related to Dayton Dialogue for Race Relations
- Youth Violence Seminar

Sarah McGraw Greenberg- Community Stabilization Manager, NeighborWorks America

Sarah Greenberg works for NeighborWorks America as the manager of the Community Stabilization Program in the National Initiatives and Applied Research Division located in Washington, DC. She was hired to bring a renewed focus to housing rehabilitation programs in the NeighborWorks network and to promote green building techniques in housing rehabilitation. Sarah also leads the corporation's new community stabilization initiative, working to stabilize and revitalize communities struggling with the negative impacts of the foreclosure crisis. She works with both internal and external partners to prevent neighborhood decline through the efficient disposition of real estate recaptured by financial institutions through foreclosure. Sarah has ten years of experience in community development and came to NeighborWorks from the National Trust for Historic Preservation. She has a Master's degree in Community Planning with specializations in Environmental Planning and Historic Preservation from the University of Maryland. She is originally from Cleveland, Ohio.

Alan Mallach – Senior Fellow, Brookings Institution

Alan Mallach is a Nonresident Senior Fellow at the Metropolitan Policy Program of The Brookings Institution in Washington, DC, where he works on foreclosure issues, neighborhood stabilization and the revitalization of older industrial cities. He is also a visiting scholar in the community affairs department of the Federal Reserve Bank of Philadelphia and senior fellow at the National Housing Institute. He has been a consultant, advocate and public official, and served as Director of the Department of Housing & Development in Trenton, New Jersey from 1990 to 1999. His latest book, A Decent Home: Planning, Building and Preserving Affordable Housing has just been published by Planners Press and the University of Chicago Press. He is also the author of Bringing Buildings Back: From Vacant Properties to Community Assets and many other works on city planning, housing and Italian opera. He is a member of the College of Fellows of the American Institute of Certified Planners, and holds a B.A. degree from Yale University.

David H. Hehman- President/CEO, Federal Home Loan Bank of Cincinnati

David H. Hehman is President and Chief Executive Officer of the Federal Home Loan Bank of Cincinnati (FHLBank), a regional wholesale bank serving 740 member financial institutions in Ohio, Kentucky, and Tennessee. He oversees the operations of the $80 billion FHLBank, whose principal business is to provide its stockholders with low-cost access to capital market funding. The FHLBank's public housing mission incorporates the congressionally-established Affordable Housing Program that has contributed $301 million to help create over 42,000 units of affordable housing.

He was named President and CEO in 2003, following a 25-year career at the FHLBank during which he held positions including Chief Financial Officer and Executive Vice President.

In addition to his duties at the FHLBank, Mr. Hehman represents the FHLBank on the Board of the Council of Federal Home Loan Banks. He also serves as a Board member of the Pentegra Defined Benefit Plan for Financial Institutions.

Outside the FHLBank, Mr. Hehman serves on the Board of Directors of Brighton Properties, Inc., a nonprofit affordable housing and social services agency serving Greater Cincinnati, the Department of

Economics Executive Advisory Board at Xavier University, and the Economic Advisory Committee for the Greater Cincinnati Chamber of Commerce.

Prior to joining the FHLBank, Mr. Hehman was an assistant professor of finance and economics at Xavier University, where he received his bachelor's and master's degrees in economics. He completed his doctorate in economics at the University of Cincinnati.

James Cunningham, Field Office Director, Department of Housing and Urban Development

Jim manages the Cincinnati Field Office for the U.S. Department of Housing and Urban Development. Jim is responsible for coordinating the delivery of HUD programs in the 13 counties of Southwest Ohio. His office provides direct customer services, conducts intergovernmental and press relations and provides direction to HUD staff throughout the State of Ohio that provide services within the Cincinnati HUD Office jurisdiction. Jim has been the head of the Cincinnati Office for eight years.

Prior to becoming the Director, Jim held several positions within the Department of Housing and Urban Development. He was a Management Analyst in Headquarters responsible for assessing the Field Office management plan performance across the country, improving HUD's monitoring and compliance efforts and managed HUD's Best Practice program. He was the Director of Community Planning and Development in the St. Louis HUD Office for three years before becoming a Community Builder. As CPD Director Jim oversaw the implementation of HUD's Community Development Block Grant, HOME Investment Partnership, Emergency Shelter Grant, Housing Opportunities for Persons with AIDS, and McKinney Homeless programs in the Eastern half of Missouri. He had other experience managing these programs as a CPD Representative in the Columbus, Ohio Office. Jim started his HUD career as a Presidential Management Intern in HUD Headquarters in the Community Development Block Grant Program. He has been with HUD for a total of 17 years. Prior to coming to HUD, Jim worked for the International City/County Management Association and was a Management Trainee for Chrysler Motors' Belvidere Illinois Assembly plant.

He earned a Bachelor's Degree in Political Science from the University of Illinois (1987) and a Masters of Public Administration from the American University (1991). He also attended two executive leadership programs for housing and community development professionals at Harvard's Kennedy School of Government.

Written Remarks of Experts

Panel 1

Amy Radachi - Executive Director, Rebuilding Together Dayton

Beth Deutscher- Executive Director, Homeownership Center of Greater Dayton

Jim McCarthy- President/CEO, Miami Valley Fair Housing Center, Inc.

Kiya Patrick- Community Economic Development Specialist, Montgomery County

Commissioner Dean Lovelace – City of Dayton

Panel 2

Sarah McGraw Greenberg- Community Stabilization Manager, NeighborWorks America

Alan Mallach – Senior Fellow, Brookings Institution

David H. Hehman- President/CEO, Federal Home Loan Bank of Cincinnati

James Cunninghan- Field Office Director, Department of Housing and Urban Development

Amy Radachi - Executive Director, Rebuilding Together Dayton

Amy Radachi
Executive Director
Rebuilding Together Dayton

Congressional Forum/Field Hearing
August 26, 2009
Congressman Michael R. Turner

In Dayton, 18% of the population lives in poverty, compared to 7.2% in the U.S. In Dayton, 34% of our children live in poverty, compared with 16% across the rest of the country. Dayton's population is shrinking (72,670 households in 1990; 67,409 in 2000) and growing older (median age 31 in 1990; 32.4 in 2000). In addition, our housing stock is aging with over 86% of it more than 35 years old. In 2005, 6.35% of the housing stock was defined by City housing inspectors as in need of major exterior repair.

Rebuilding Together Dayton is a non-profit corporation that assists low-income homeowners to live in warmth, safety and independence. There are over 200 affiliates nationwide. The Dayton affiliate has been active since 1996. We have several programs in place to offer our services at no cost to the homeowner, including, but not limited to, National Rebuilding Day, which culminates on the last Saturday in April. Over 1,300 volunteers descend on dozens of homes throughout the City of Dayton in a one day neighborhood revitalization project, performing major repairs for elderly and disabled low-income homeowners.

Rebuilding Together Dayton leverages $4 for every $1 raised to repair homes for low-income Dayton area homeowners through in-kind labor and donated materials. No other organization in Montgomery County can make this claim. We efficiently and effectively maximize the value of every dollar through donations and volunteer labor.

Neighbor•Care was established in 2001 to address the needs of homeowners on a year round basis. Neighbor•Care encompasses Montgomery County, performing modifications for those age 60 and over so they may age in place, safely and independently. In 2008, 208 repairs were completed for 119 homeowners. So far this year, 95 projects have been completed for 61 homeowners.

Our Lead Safe for Kids Sake targets homes with children under the age of six to remove the threat of lead in the home in Dayton and Kettering.

Heroes at Home, sponsored by Sears, performs repairs and modifications for our military veterans.

RT Dayton is one of seven affiliates nationwide selected to participate in a Lead Safe Work Practices grant, sponsored by HUD. Community outreach, education and remediation of the impact of lead in the home are the goals for this program.

Our two AmeriCorps members serve as Outreach Coordinators, working to build relationships with community groups, neighborhood activists, social organizations and local government to better address the needs of low-income homeowners.

Rebuilding Together Dayton receives Community Development Block Grant funding from HUD through the City of Dayton for administrative costs. This funding enables us to use corporate, foundation and individual donations for project expenses. The University of Dayton provides donated office space and Montgomery County's Frail Elderly Fund supports staff and programs for Neighbor•Care.

Rebuilding Together Dayton has been very successful at mobilizing volunteers to perform repairs and modifications for hundreds of homeowners. Our challenge is finding the funding to help the many more homeowners in need. Our County funding is restricted to performing modifications (wheelchair ramps, grab bars, handrails) for homeowners age 60 and over. There is no designated funding source for the thousands of homeowners throughout Montgomery County, of all ages, in need for urgent home repairs, such as roof repairs or electrical upgrades.

The current Neighborhood Stabilization Program provides funding for two things – the demolition of vacant properties and the purchase/rehab/resale of foreclosed properties. There is no provision for owner-occupied rehab. Congressman Turner's proposed bill HR3204 offers much-needed support to homeowners living in areas hardest hit by the housing crisis by allowing organizations like Rebuilding Together Dayton access to funds to perform the repairs on their homes at no cost so that they can continue to live there. As low-income homeowners, they are unable to make the necessary repairs on their homes, and have nowhere else to turn.

Beth Deutscher- Executive Director, Homeownership Center of Greater Dayton

Statement of

Beth Deutscher
Executive Director
HomeOwnership Center of Greater Dayton,
A program of
St. Mary Development Corporation

Before Congressman Michael Turner
Third Congressional District of Ohio

Field Hearing on
Housing Issues: Dayton, Ohio

Congressman Turner, my name is Beth Deutscher, Executive Director of the HomeOwnership Center of Greater Dayton, a program of St. Mary Development Corporation. I thank you for the opportunity to discuss housing issues concerning the Dayton area, particularly the impact of the local foreclosure crisis.

Background on the HomeOwnership Center
The HomeOwnership Center was established by St. Mary Development Corporation in 2002 with the mission of empowering local residents to achieve and sustain homeownership and financial success. Our non-profit agency is a chartered member of NeighborWorks America – a national network created by Congress that includes over 230 community-based organizations creating healthy communities through the work of thousands of residents, business people, government officials and other partners. We are also a HUD-approved housing counseling agency, and have met strict program standards that ensure a high level of quality in the services we deliver.

The HomeOwnership Center provides a variety of housing services, including pre-and post-purchase counseling and education, foreclosure prevention and predatory lending counseling, financial literacy training, down payment assistance, reverse mortgage counseling, supportive services to our lease-to-purchase residents, and linkages to mortgage financing as well as other local housing initiatives. Our organization has provided education and guidance to more than 7000 individuals and families in our eight county service area.

Addressing the Foreclosure Crisis
The HomeOwnership Center has been working on foreclosure issues for several years, focused initially on our partnership with Miami Valley Fair Housing Center's (MVFHC) Predatory Lending Solutions program. Our role within the program includes financial assessment as well as counseling and education to victims of predatory lending. Our staff works to help these homeowners recover from the devastating impact of terrible mortgages and prepare for re a modification of existing mortgage terms or refinancing into better products. These services are offered in the context of intervention by MVFHC, who explores legal options and settlement opportunities for victims who seek assistance through the program.

From 2002 through 2005, this work represented approximately 25% of our homeownership services, with the balance focused primarily on services to first-time homebuyers. However, predatory lending continued in our community despite warnings from those of us witnessing the evidence first-hand, and a growing number of residents were put at risk for losing their homes. In response to the tremendous escalation of foreclosure filings in 2006, the HomeOwnership Center expanded our services to local homeowners potentially facing foreclosure. Today, our foreclosure prevention work represents 75% of our efforts and our staff has more than doubled in our attempt to meet the demand for services. In 2005, we provided foreclosure prevention counseling to 112 homeowners; in 2009, this number will approach 2000.

Montgomery County's foreclosure filings reached a staggering number in 2006, cresting over 5000 – a number that was unfortunately sustained in 2007 and 2008. The crisis continues in 2009, with projections that Montgomery County's foreclosure filings will once again reach the 5000 range. Our experience in working with families at risk of losing their homes especially over the past 18 months are reflective of the economic challenges of the region, with escalating unemployment rates resulting from plant closures and cutbacks in jobs that offer a living wage.

In addition to increasing our staffing levels and organizational capacity, the HomeOwnership Center has undertaken a number of initiatives to help our residents and community respond to the foreclosure crisis. In 2006, we took a leadership role in establishing the NeighborWorks Ohio Foreclosure Prevention Initiative – a statewide effort that mobilized 11 organizations and established the Ohio Home Rescue Fund. This program utilizes funding from the Ohio Department of Development's Office of Housing and Community Partnerships and Ohio Housing Finance Agency to offer rescue loans that help homeowners avoid foreclosure. We are also providing rescue funds to participating lender customers through the Federal Home Loan Bank of Cincinnati's Preserving the American Dream program.

The HomeOwnership Center has partnered with a number of local, state and national partners for foreclosure intervention and community education efforts that encourage at-risk homeowners to reach out for assistance. These partnerships include the City of Dayton, NeighborWorks America, the State of Ohio's Save the Dream campaign, Montgomery County and United Way's 211 campaign, Dayton area credit unions, the Montgomery County Clerk of Courts, the Montgomery County Treasurer, Ohio's Attorney General, First Suburbs Consortium, the City of Kettering, the City of Moraine, Troy Community Works, ThinkTV, Dayton Daily News, local television and radio stations, area churches, Montgomery County libraries, and many others.

Making the Work Possible

The HomeOwnership Center has participated in the National Foreclosure Mitigation and Counseling program established by Congress to fund foreclosure prevention counseling. Allocations from the past two years have totaled $808,000, plus an additional $240,000 that allows us to offer legal assistance to our clients through an expanded partnership with Miami Valley Fair Housing Center. This funding has significantly increased our ability to help meet the needs of our community, and we thank you for your support in making these resources available. We have also received financial support from a number of local and state partners, and we are grateful for those opportunities as well.

Program Challenges

While we have been successful in saving hundreds of local homeowners from foreclosure, with many more in the pipeline, there are challenges that interfere with our ability to help a much higher number in resolving their mortgage difficulties. The most significant of these problems is the inefficient process of working with mortgage servicers toward a reasonable and sustainable resolution for our clients – one case at a time. It is very common for us to experience three-six month delays in the responses from servicers regarding workout requests submitted by our staff. Our counselors frequently must resubmit packages to servicers multiple times because documents are lost. Fax numbers provided are often not functional. In some cases, servicers are simply inflexible regarding workable options that might help a homeowner save their home.

When the Obama administration introduced the Making Home Affordable program, we joined our colleagues in the housing counseling industry in the hope that we would now have a reasonable and consistent system for mortgage servicers' approval of loan modifications and mortgage refinances. Unfortunately, this is not the case to date. In most cases, responses to borrower requests are delayed further, and we see little consistency among the servicers' implementation of the program. We appreciate the complexity of deploying a national program that represents a new approach to standardizing loan modifications and refinancing for troubled borrowers. We await the positive outcomes that the program could potentially bring once servicers have fully executed the program as intended.

Summary

In summary, we believe that the foreclosure crisis in the Dayton area shows little sign of diminishing in the near future. There must be improvement in the nation's economy, and an increased availability of jobs for our local residents, before we will see significant improvement. Current estimates are that the crisis will continue through 2012 or longer.

The impact on individuals, families, and neighborhoods will require years of recovery. The HomeOwnership Center continues our commitment to assisting homeowners and the communities that are impacted by this crisis to the best of our ability. We also remain committed to our experience that one of the best ways to encourage default-resistant homeowners is to provide high quality pre- and post-purchase homeownership counseling and education.

Congressional Assistance

There are a number of ways in which Congress could make a difference as we work to address the foreclosure crisis and common housing goals.

1. We need your continued support for housing counseling funding. Additional dollars will be needed to fund the National Foreclosure Mitigation and Counseling program through NeighborWorks. Indications are that funding is already diminishing in 2010, and we await news regarding the HomeOwnership Center's allocation to cover costs through next June. Additionally, we need funding through HUD and/or NeighborWorks to fund comprehensive counseling efforts, so that we may renew efforts to provide education and guidance to new homeowners. Now, more than ever, we need to stimulate the housing market and create foreclosure-resistant homeowners.

2. We need your support for the continuation of Neighborhood Stabilization programs that allow local jurisdictions to logically reduce unproductive units through demolition and increase rehabilitation efforts in neighborhoods that have been heavily impacted by vacant properties.

3. We need regulatory and enforcement mechanisms put into place for the mortgage servicing industry. We need your continued efforts to improve servicer performance within the Making Home Affordable program.

4. We need legislation that protects consumers from exposure to "mortgage rescue" scams that are designed to take advantage of at-risk homeowners.

5. We need Congress to urge leadership within HUD to reinstitute an incentive or requirement for first-time homebuyers to complete homeownership education. The necessity for ensuring that borrowers receive quality training and guidance as they navigate the mortgage system will become increasingly evident as FHA loans show rising default rates in the coming months.

Again, thank you for the opportunity to testify. I welcome your questions regarding my comments or the HomeOwnership Center's work.

Jim McCarthy- President/CEO, Miami Valley Fair Housing Center, Inc.

Congressman Turner and honored guests, my name is Jim McCarthy. I have been the President/CEO of the Miami Valley Fair Housing Center since 1998, and I am currently the Chair of the Board of Directors of the National Fair Housing Alliance, based in Washington, D.C. Thank you for the opportunity to discuss housing issues that the Dayton area is facing and for the opportunity to comment on the role of federal government in our work locally.

The Miami Valley Fair Housing Center (MVFHC) is the only private, non-profit fair housing organization in the Dayton/Montgomery County, Ohio area, and is an operating member of the National Fair Housing Alliance. Our mission is to eliminate housing discrimination and to ensure equal housing opportunity for all people in our region. MVFHC works to educate the public and local housing professionals about their rights and obligations under fair housing laws, and it conducts investigations into discriminatory rental, real estate sales, mortgage lending and homeowners insurance practices.

Since January 2001, the Miami Valley Fair Housing Center has been running the Predatory Lending Solutions (PLS) project in Montgomery County, Ohio. The PLS project is a multi-component project developed by the Fair Housing Center and its collaborative partners and has been used by other communities as a model in creating programs to address the problem of predatory lending. Through the PLS project, we assist residents of Montgomery County by providing outreach and education on the dangers of predatory mortgage lending and by providing intervention and rescue services to those residents who have been victims of predatory mortgage lending. In this work, our partnership with the HomeOwnership Center of Greater Dayton has been critical to our ability to successfully implement a comprehensive program.

These two umbrella areas – housing discrimination and predatory mortgage lending and its resulting foreclosures – are the Fair Housing Center's two primary lines of business. Over the past five years, the Center has assisted more than 2,900 Miami Valley families who were either facing housing discrimination, predatory mortgage lending, and/or foreclosure.

Predatory Lending in Montgomery County, Ohio

At my agency, we define a predatory loan simply as—any loan that is inappropriate for the borrower is predatory. Predatory lending becomes a fair housing and fair lending issue when lenders and/or mortgage brokers target specific populations, such as elderly, minority and low- to moderate-income homeowners, particularly those with substantial equity in their homes.

The pattern of predatory mortgage lending in the Dayton/Montgomery County area certainly bears this out. When we first began dealing with the issue at my agency, the majority of our clients were elderly individuals residing in inner-city minority neighborhoods. Many of them had owned their homes free of debt for a number of years, until they became involved with a subprime lender. Our work suggests that these homeowners were targeted for subprime loans because they had significant equity in their homes and because their credit needs had been historically ignored by depository lending institutions. Thus the very same neighborhoods that had been subjected to years of homeowner insurance and mortgage lending redlining were also targeted as vineyards ripe for the harvesting of hard-earned equity, and have now been devastated by unprecedented levels of foreclosure and abandonment. These neighborhoods are devastated by boarded-up, foreclosed upon homes that blight street after street, creating arenas in which prostitution, drug abuse and trafficking, and worse crimes occur.

However, predatory lending and the resulting foreclosures and related problems do not confine themselves to inner-city minority neighborhoods. The foreclosure crisis is spreading throughout even some of the most affluent neighborhoods in our area.

Fair housing and consumer advocates have been sounding warnings regarding Ohio's subprime lending and foreclosure problem for years. Ohio has been and is experiencing unprecedented levels of residential foreclosures, the effects of which are devastating not only on the families losing their homes but also for their neighbors and the cities they live in.

Unfortunately, throughout most of our recent history, the federal government has stood by silently, willfully impotent in its ability to protect our communities, to stop the peddling of toxic loan products, and ultimately to prevent the resulting economic crisis currently faced by our communities and our country.

Fair Housing in Montgomery County, Ohio

One does not have to look hard to see the presence of housing discrimination within the Montgomery County, Ohio area. Because of our area's prior participation in the 1989 National Housing Discrimination Study and because of the significant population of black minorities, HUD included the Dayton-Springfield metropolitan statistical area (MSA) in its 2000 HDS. After conducting systematic paired testing, HUD reported in the 2000 HDS that black renters within the Dayton-Springfield MSA received consistent adverse treatment in 24.3% of the tests. More disappointingly, while the national average of consistent adverse treatment in home sales declined from 29% in 1989 to 17% in 2000, black homebuyers in the Dayton-Springfield MSA received consistent adverse treatment in 21.4% of the tests conducted.
Need stuff from problem statement here.

The presence of housing discrimination is also illustrated by the degree to which minority populations in the Dayton MSA are clustered together. Clustering is measured by the extent that an area populated by minority members adjoins another area, or cluster.[1] A high degree of clustering, measured by the spatial proximity of minority and majority populations, indicates the presence of distinctly racial or ethnic neighborhoods. The index equals 0.0 when minority members cluster the same amount as the majority – or when the area is integrated; is positive when minorities cluster in greater numbers than the majority – or when minority populations are segregated into an area; and is negative if they are less clustered than the majority – or when minority populations are more interspersed throughout the area. The data clearly shows that the African American population within the Dayton MSA is highly clustered together.

Housing Patterns within Dayton, OH (MSA) using the Relative Clustering Index, 2000

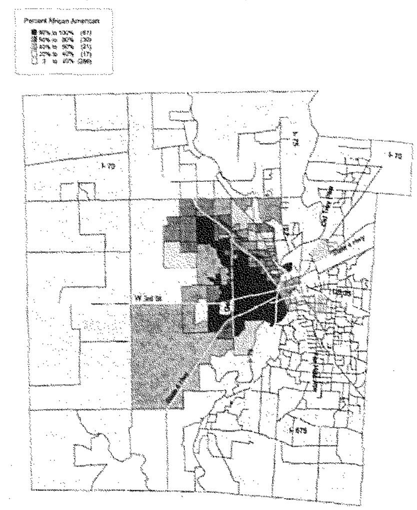
Race / Ethnicity	Total Population	Minority Population	Index Value
Asian	848,153	13,989	0.699
Black or African American	848,153	128,282	1.770
Hispanic	848,153	9,811	0.054

Source: U.S. Census Bureau, Housing and Household Economic Statistics Division

[1] The US Census Housing Patterns glossary defines the indicators used within their residential segregation study. It attributes such indicators to Massey and Denton, who used a literature search and cluster analysis to identify 20 different indices of segregation and classify them into five key dimensions of segregation. See "*19 Measures of Residential Housing Patterns*" at www.census.gov/hhes/www/housing/housing_patterns/housing_patterns.html .

These studies illustrate a fact of which local residents are well aware — Montgomery County, Ohio is a hyper-segregated area.

Montgomery County Census Blocks by Percent African American



The map[2] at right examines the percentage of minority population within the census block. The darkest areas have an African-American population of 80% or greater, while the lightest areas have less than a 20% African-American population. Such segregation has a profound impact on nearly every aspect of life.

In the 2005 Dayton mayoral election, the challenger, who was Caucasian, commented on his experience campaigning against the incumbent mayor, who was African-American:

I heard the "n word" too often, and sometimes came away from a voter's front porch knowing I would get his vote even if I had a swastika tattooed on my forehead. Equally distressing were those voters whose wink-wink conversations with me implied that I understood, and somehow embraced, the reason (perhaps the only reason) they were supporting me: I am white.

But I was also received by many African-American voters, clearly unhappy that I was knocking on their doors and even thinking about challenging the incumbent[3]

Such racism also appears within our testing results. Over a 3-year period, MVFHC conducted numerous real estate sale tests of only a small percentage of the real estate agencies servicing the Montgomery County area. The results are disheartening. MVFHC's testing consistently showed racial steering and differing treatment in regards to the quality of service provided. For example, a realtor informed a Caucasian tester, who was relocating and did not know the area, to look online at some houses, and if the tester was interested in some houses to give the realtor a call. The realtor told the tester that, though she "couldn't say anything," the tester could "listen to the tone of my voice" as the tester would "be able to tell if it was something [they] shouldn't look at." In another test, the realtor would only show the African-American tester the initial property she called about because she was not yet pre-approved, but the same realtor showed the Caucasian tester 9 properties around the area, knowing that she was not yet pre-approved. When the African-American tester attempted to see more properties, as she hpre-approved, the realtor did not return any of her phone calls.

Miami Valley Fair Housing Center Successes

Predatory Lending

The PLS project offers prevention and intervention services to Miami Valley families who are potential or present victims of predatory lending practices. The PLS project includes community education and outreach as well as direct victim intervention. We have counseled more than 1,650 families on predatory lending, and initiated direct legal intervention for more than 430 families. Despite these successes, each year the number of mortgage foreclosure filings continued unabated. Consider that in 2005 we provided assistance to 254 families, but there

[2] Produced by the Center of Business and Economic Research, University of Dayton, 2006
[3] Bohardt, David. "*What I learned on the campaign trail.*" Dayton Daily News; 11/15/05, A9

were 4,050 mortgage foreclosures filed. In 2008 we provided assistance to 353 families, but there were 5,194 mortgage foreclosures filed. Consider further that until 2008, there were literally no resources available from the federal government to do anything about predatory lending, or its resulting foreclosures.

Fair Housing
The Miami Valley Fair Housing Center (MVFHC) has been an operating member of the National Fair Housing Alliance since 1993. As such, the Miami Valley Fair Housing Center is a comprehensive full-service fair housing center that has experience in auditing and testing activities, and fair housing and fair lending education and outreach. MVFHC has consistently received "Excellent" ratings in all of its evaluations from HUD for the work it performed under all its federal grants.

The MVFHC's enforcement program has also flourished, as evidenced by the fact that in 2000 the MVFHC was the local agency selected by HUD and the Urban Institute to conduct the National Housing Discrimination Study (HDS) in the Dayton and Miami Valley area. The MVFHC successfully conducted all types of testing, including rental, sales, linguistic profiling, reasonable accommodation/ modification requests, and accessibility design & construction testing, with significant results.

The MVFHC has successfully identified, investigated and filed more than two hundred and sixty-three (263) complaints of housing discrimination in the last five years. And MVFHC has successfully resolved one hundred thirty-six (136) fair housing cases involving the protected classes of race, familial status, and disability/handicap. The Center currently has forty-three (43) open cases that it is pursuing either administratively through HUD and the Ohio Civil Rights Commission or in state or federal court and twenty-nine (29) additional cases that are being investigated/tested but have not yet been filed either administratively or in court. Protected classes in the Center's current open caseload include race, sex, national origin, familial status, and disability/handicap.

All of our work — education, outreach, intervention on predatory lending and foreclosures, and comprehensive fair housing, anti-housing discrimination services — is accomplished with a full-time professional staff of seven (7), with three additional support positions like a bookkeeper, administrative assistant, and IT person.

Making the Work Possible

Our work has been made possible by vision, commitment and leadership on the local level.
Montgomery County has been the Miami Valley Fair Housing Center's champion since its inception and particularly since 2000, when the predatory lending issue was presented to the county commissioners. Without the more than $4.25 million in funding that the County has provided over the last eight years, the progress that has been made and the successes that we have realized would not have been possible.

In addition to Montgomery County, the Fair Housing Center's work has also been supported by County Corp, the City of Kettering, the City of Dayton, Fannie Mae, Freddie Mac, the Dayton Foundation, and the Virginia Kettering Foundation.

The Fair Housing Initiatives Program (FHIP) from the U.S. Department of Housing & Urban Development (HUD) has also been a critical funding component of our work in the last five years, providing approximately $975,000.00 in FHIP funding. However, the FHIP program has been historically underfunded and underutilized by HUD to address the country's pressing housing segregation issues.

Challenges

While we have been successful in saving hundreds of local homeowners from predatory lending and its resulting foreclosures, and while we continue to offer a comprehensive array of services that have ensured we have many people queuing up to request our services, there is no systemic way in which we can challenge predatory lending and/or foreclosures. The methods for assisting people are one-at-time "whack a mole" procedures, wherein as soon as one homeowner/borrower is assisted, another two or three appear needing similar assistance or more.

Despite warnings early on, in fact more than seven years ago, from fair housing practitioners, consumer advocates, and housing counselors, the federal government has only recently brought resources to the mortgage foreclosure problem, and has still not earnestly and effectively addressed the underlying predatory mortgage lending problem.

April 2009 marked the 41st anniversary of the passage of the federal Fair Housing Act. The Act requires communities and the federal government to proactively further fair housing, residential integration, and equal opportunity goals; however, equal opportunity in housing remains a major challenge, with collateral impact far beyond four walls and a roof. And yet, America's communities are still highly segregated and the volume of fair housing complaints is unacceptably high.

Historically, the Fair Housing Initiatives Program (FHIP) has been grossly underfunded despite documentation that shows its success.

In May 2009, the National Fair Housing Alliance (NFHA) released "Fair Housing Enforcement: Time for a Change," it's 2009 Fair Housing Trends Report, that noted that 93 private non-profit fair housing organizations processed almost twice as many cases last year as the U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Justice, and 107 state and local government agencies combined.

The deepening foreclosure crisis accounts in part for the upsurge in housing discrimination. Private fair housing centers around the country have seen more cases of discrimination in mortgage lending than ever before. Yet, HUD initiated only 4 investigations into lending discrimination last year and DOJ brought only one mortgage lending case. In addition, HUD handled only 60 fair lending complaints in 2008, compared to 1,500 handled by private fair housing centers.

"Fair housing advocates have been warning the federal government for a decade, to no avail, about the damage that abusive lending would bring," said Shanna L. Smith, NFHA President and CEO. "For too long, HUD and the Justice Department have stood by while people and neighborhoods of color have been targeted for predatory loans and stripped of equity. As we look forward to working with the new Administration to bring in an era of change, the change must begin with HUD's and Justice's fair housing enforcement programs."

Fair housing complaints handled by private groups jumped by 17 percent from the previous year to 20,173. This amounts to 66 percent of all national complaints. In 2008, HUD handled only 2,123 fair housing complaints, state and local agencies only 8,429, and the Justice Department only 33 cases. The Fair Housing Act prohibits housing discrimination on the basis of race, color, national origin, religion, sex, familial status and disability. It also covers all housing transactions and services, including advertising, rentals, sales, lending, and insurance, as well as harassment.
In addition, there are notable disconcerting increases in discriminatory housing ads on the internet.

Summary

The Fair Housing Center has been working on these issues for years. In many ways, we may seem like a broken record in our summaries and recommendations. It is clear that the foreclosure crisis in the Miami Valley area will not diminish in the next three to five years.

There will continue to be devastating impacts upon families and neighborhoods that will require years of focused public policy, investment, and monitoring in order to realize anything near a "recovery."

Together with our community partners, funders, and elected officials, the Miami Valley Fair Housing Center remains committed to assisting individual homeowners and the communities in which they live.

We recognize the importance of "home" as a component of the American dream. We envision a country free of housing discrimination where every individual, group and community enjoys equal housing opportunity and access in a bias-free and open housing market. We envision a country where integrated neighborhoods are the norm, and private and public sectors guarantee civil rights in an open and barrier-free community committed to healing the history of discrimination in America.

What Do We Need From Congress?

We need Congress to be vigilant on the issues of predatory mortgage lending and foreclosures. We need bipartisan efforts to earnestly assess the problems and develop creative solutions that will ensure that individuals and communities are protected.

We need Congress to listen to the fair housing and consumer advocates and give the same credence to our case stories, data and statistics as it does to those presented by the banking, lending, servicing, and real estate industries.

We need Congress to increase and stabilize funding to private fair housing organizations and housing counseling organizations.

We need Congress to continue to support the Neighborhood Stabilization programs that allow local jurisdictions to demolish where appropriate and rehabilitate where possible, so as to ensure that our neighborhoods that have been heavily impacted by vacant properties can begin to thrive again.

We need Congress to implement regulatory and enforcement mechanisms for the mortgage servicing industry.

We need Congress to create a Consumer Financial Protection Agency and fund it appropriately.

I am happy to answer any questions regarding my comments or the Fair Housing Center's work.

Thank you for this opportunity to present today.

Kiya Patrick- Community Economic Development Specialist, Montgomery County

Statement of

Kiya Patrick
Community Development Specialist II
Montgomery County Community and Economic Development Office

Before Congressman Michael Turner
Third Congressional District of Ohio

Field Hearing on
Impact of the Housing Crisis: Dayton, Ohio

Congressman Turner and honored guests, I am Kiya Patrick, a Community and Economic Development Specialist with Montgomery County. It's my pleasure to share with you some of Montgomery County's observations regarding the effects of the housing crisis.

Background on the Community Development Office:
Montgomery County has participated in the Housing and Urban Development's Community Development Block Grant Program, commonly known as CDBG since 1975. Montgomery County's CDBG Program serves residents living within the geographic boundaries of the County, exclusive of the Cities of Dayton and Kettering (which each receive individual funding).

Through concentrated, long-term improvements in specific neighborhoods, Montgomery County's goal is to increase property values, improve livability and revitalize neighborhoods. In order to achieve this goal, the County has focused its CDBG efforts in three basic categories: (1) infrastructure improvements, (2) housing improvements, and (3) economic development. To further its goals, the County partners with agencies, such as the agencies represented on the panel today, in addition to Montgomery County's Housing and Homeless Solutions Team, Dayton Metropolitan Housing Authority and CountyCorp.

The County receives additional federal funding through the HOME Investment Partnership and Emergency Shelter Grant Programs.

Problems and Trends as a Result of the Housing Crisis Observed by Montgomery County:

Vacancies: The excessive number of residential mortgage foreclosures, overbuilding of the housing market and loss of the employment base are the most critical factors causing vacancy and abandonment. These vacancies and abandonments are impairing the region's housing market in general. With job opportunities waning, the region has witnessed a dramatic loss in population. Such population loss has contributed to empty homes in the region. According to Gem Public Sector Services, housing markets are regarded to be stabilized, at a vacancy rate of five percent (5%). In Montgomery County, housing vacancy is estimated at 14.1% in 2008, leaving an estimated 36,243 vacant units in neighborhoods across the County. This vacancy rate is projected to jump to 18.4% by 2013, which could potentially create over 48,000 vacancies.

Declining Property Values: Vacant homes that languish for long periods of time have the effect of making adjacent homeowners less likely to maintain and reinvest in their own properties. The deferred maintenance and continued vacancy begins the process of disinvestment resulting in declining home values. Average residential property values within the region fell 4.4% in the recent Auditor's revaluation; and property tax delinquencies have been rising steadily. Both of these factors have depressed 2009 property values and property tax revenues, and will continue to do so in the future.

Weak Home Sales: Data from the Dayton Area Board of Realtors indicates that less than fifty percent (50%) of all annual residential listings, have actually sold in the local market since 2000. The average sales prices in the regional market have shown substantial declines in recent years, likely the combined effects of declining housing demand and the numbers of homes in foreclosure.

Increased Underwriting Restrictions: A return to traditional loan underwriting standards in the future is likely to have a negative effect on annual home sales and homeowner rehabilitation loans for the foreseeable future. With an excess supply of housing units on the landscape, it is likely that housing values will continue to erode, making appraisals for mortgage lending purposes an area of concern. Recent upward trends in CDBG funding requests to the County are demonstrating a need for increased funding to assist with homeowner rehabilitation efforts.

A Solution to Addressing the Housing Crisis-Progress with Recent NSP Funds:

Recognizing the damage that foreclosures have created on communities around the country, we are thankful that last summer Congress appropriated $3.9 billion to fund the Neighborhood Stabilization Program (NSP). Montgomery County was fortunate to receive almost $6 million dollars in NSP 1 funding. The County has also partnered with the Cities of Dayton, Fairborn and Kettering, along with Dayton Metropolitan Housing Authority as part of a consortium and is hopeful to receive additional funds through NSP2.

Montgomery County's NSP1 plan is premised on the use of the NSP funding as a catalyst to rebuild our areas of greatest need. This premise mirrors the spirit in which Congress passed the legislation. The goal of the plan is not to demolish as many units as possible, or to maximize the number of housing deals. The purpose is to stabilize Montgomery County neighborhoods.

The County recognizes that this is the largest allocation ever provided for housing; and this will chart the course for years to come on federal policy, as well as the provision for additional funding. While we do not (locally) have control over the uncertainty of financial markets, the tightening of underwriting standards (affecting both homebuyers and existing homeowners), nor the rising costs adversely affecting households; we are taking a proactive approach to spark a positive impact on neighborhoods within Montgomery County.

The neighborhoods or areas the NSP1 plan addresses are currently functioning at 2 different levels.

Level I Areas- are neighborhoods that need a push, an immediate infusion of resources can make a difference. Level I neighborhoods could best be described as areas where foreclosed and vacant homes are destabilizing the area; however prior to the subprime loan epidemic, an overwhelming number of vacancies was not present. In these neighborhoods, crime rates are acceptable general conditions are good, making redevelopment relatively easier- if foreclosed properties are addressed. There are issues of concern, such as an increasing number of rental units (once owner-occupied homes) that need increased code-enforcement monitoring. However, in general, the housing stock is sound. Montgomery County's NSP1 funds will be used to purchase abandoned/foreclosed properties in these Level 1 areas. Acquired properties will be rehabilitated using sustainable and energy efficient practices in order to maintain homeowner affordability through reduced utility and property maintenance costs.

Upon rehabilitation, the properties will be sold to low, moderate and middle income families, and affordability gap financing will be available to facilitate homeownership.

Level II Areas are considered distressed areas with housing that has been foreclosed and/or abandoned, and the reuse of such housing is not economically practical. These areas call for a larger dedication of resources in order to have any impact. Such areas may be more suited for an acquisition and demolition project in order to make way for a larger scale development in the future.

Since the release of NSP1 funds to Montgomery County in early March, through its nonprofit partner, CountyCorp, the County has acquired approximately 10 NSP eligible properties in specific target areas. This accomplishment is significant, as navigating (quickly) through the acquisition of foreclosed and/or abandoned properties; while adhering to NSP federal regulations is a very difficult, although a rewarding task. Additionally, with the implementation of NSP1, jobs have been created through real estate agents, title companies and appraisers that have been hired to assist with property acquisition; and contractors that have begun rehabilitation work on acquired properties. A lender partner has been secured to assist with financing options for future homebuyers.

Summary:

The infusion of recent federal funds is promising and provides hope for local housing practitioners in addressing some of the issues resulting from the housing crisis. Montgomery County remains committed to its responsible stewardship of federal funds in creating quality affordable housing options for the citizens of Montgomery County.

How we could use Congressional Assistance in Addressing the Housing Crisis:

1. If foreclosure filings came to a screeching halt today, we would still be left with thousands of abandoned and vacant homes needing attention. Therefore, we need continued support from Congress for the Neighborhood Stabilization Program which allows us to invest in stabilizing low, moderate and middle income communities disproportionately impacted by the rising numbers of foreclosures.

2. We ask Congress to consider increasing the income limits of the CDBG and HOME programs in order to mirror NSP income limits to allow for greater leveraging of federal funds to more effectively stabilize neighborhoods.

3. We need regulatory and enforcement mechanisms for the mortgage servicing industry to allow for easier acquisition of abandoned and foreclosed homes by governments and non-profits.

4. We need increased awareness and cooperation by the private sector in order to expeditiously expend federal funds for their intended purposes. Many of the key private sector players (i.e. Realtors, REO Specialists, and Lenders) are unfamiliar with the programs, making speedy implementation difficult.

Montgomery County would like to thank you for your leadership and the opportunity to host this hearing.

Commissioner Dean Lovelace – City of Dayton

Notes, statistics, and data on the Dayton housing crisis provided by Commissioner Dean Lovelace (Complete remarks not available in written format)

Statistics from the Year 2000:

- 34.1% of total housing units (26,351 units) were built before 1940
  - **In the year 2000, 34.1% of Dayton's housing stock was at least 60 years old.**
- 37.3% of total housing units (28,881 units) were built between 1940 and 1959
  - **In the year 2000, 37.3% of Dayton's housing stock was between 40 and 60 years old.**
- 12.7% of total housing units (9,912 units) were vacant
  - **In the year 2000, 12.7% of Dayton's housing stock was vacant.**

Condition of Residential Structures:

- According to the 1998 Bluebook,
  - 78% of the residential structures were rated condition 1
    - Condition 1 structures, yard walks, and steps are well-maintained and no exterior code violations are present
  - 16% condition 2;
    - Condition 2 structures need minor repairs
  - 5% condition 3;
    - Condition 3 structures need major repairs
  - 1% condition 4 and 5
    - Condition 4 structures need significant rehabilitation
    - Condition 5 structures have no potential for rehabilitation

Current Statistics:

- The current Census estimate is 15,562 vacant units (20.3%) in Dayton.
- 2005 Bluebook statistics were identical to the 1998 statistics

Sarah McGraw Greenberg- Community Stabilization Manager, NeighborWorks America

Written Testimony of

Sarah M. Greenberg
Manager, Community Stabilization
Neighborhood Reinvestment Corporation
(now doing business as NeighborWorks® America)

Hosted by
Congressman Turner (OH-3)
Northeast-Midwest Institute Forum
Impact of the Housing Crisis on the Local Communities
and the Federal Response to this Crisis
August 26, 2009
8:30 AM

Good morning Congressman Turner, my name is Sarah Greenberg, and I serve as the Manager of Community Stabilization in the National Initiatives and Applied Research Division for NeighborWorks America. I appreciate the opportunity to appear before you and the Northeast-Midwest Institute today to talk about NeighborWorks America's national efforts to help address the mortgage crisis. I will focus my testimony on the corporation's national efforts to prevent foreclosures which include the administration of the National Foreclosure Mitigation Counseling (NFMC) program.

Background Information Regarding NeighborWorks America
By way of background, NeighborWorks America was established by Congress in 1978 as the Neighborhood Reinvestment Corporation. As you know, the corporation receives an annual federal appropriation from Congress through the Transportation, Housing and Urban Development, and Related Agencies Appropriations Subcommittees. By statute, NeighborWorks America's Board of Directors is comprised of the heads of the five financial regulatory agencies (the Federal Reserve Board, The Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration) and a designee of the Secretary of the U.S. Department of Housing and Urban Development.

NeighborWorks America's primary mission is to expand affordable housing opportunities (rental and homeownership) and to strengthen distressed urban, suburban and rural communities across America, working primarily through a national network of local community-based nonprofit organizations, known collectively as the NeighborWorks network.

The NeighborWorks network is comprised of more than 235 community-based organizations serving more than 4,500 urban, suburban and rural communities in all 50 states, Puerto Rico and the District of Columbia.

But with the growing foreclosure crisis, NeighborWorks expanded its efforts on behalf of the Nation's neighborhoods, and is now a nationally recognized leader in the fight against foreclosures. The following describes much of our efforts to respond to the current foreclosure crisis.

NeighborWorks Center for Foreclosure Solutions
Five years ago, NeighborWorks America anticipated that the proliferation of sub-prime lending and non-traditional mortgage products would lead to an increase in foreclosures - particularly in the low-income and minority communities served by the NeighborWorks network - and created the NeighborWorks Center for Foreclosure Solutions.

The NeighborWorks Center for Foreclosure Solutions provides training and certification to foreclosure counselors, conducts public outreach campaigns, researches local and national trends to develop innovative solutions, and supports local and regional foreclosure intervention efforts.

In cities and states with high rates of foreclosure, the Center works with local leaders to create local coalitions and sustainable foreclosure intervention. For example, starting in 2005, NeighborWorks America has provided support to members of a statewide nonprofit coalition that is working to leverage their strategic partnerships and reduce foreclosures among low- and moderate-income families across Ohio.

NeighborWorks also provides a five-day training and certification course for foreclosure counselors as part of a new Foreclosure Prevention Counseling Certification series. In FY 2008, NeighborWorks awarded over 6,100 training certificates in foreclosure prevention-related coursework to individuals from more than 2,400 organizations at NeighborWorks' four National Training Institutes and 150 Place-Based Trainings in more than 60 cities. So far this year, more than 4,000 additional foreclosure counseling certificates have been awarded. In addition, as of May 11, 2009, more than 2,500 participants had completed a new e-learning Foreclosure Basics course. This has significantly increased the capacity of counselors and other foreclosure mitigation staff throughout the country.

National Public Outreach Campaign

To reach the hundreds of thousands of homeowners in danger of losing their homes, NeighborWorks America partnered with the Ad Council on a national public outreach campaign.

This campaign seeks to prevent home foreclosure by urging homeowners in financial trouble to call the "Homeowner's HOPE Hotline" (888-995-HOPE), the Homeownership Preservation Foundation's national foreclosure counseling hotline.

The hotline provides free foreclosure intervention counseling 24 hours a day, 7 days a week in both English and Spanish and links callers as appropriate with their lender or servicer, a local NeighborWorks organization or other HUD-approved nonprofit organization with certified foreclosure intervention housing counselors, for more extensive face-to-face counseling. The Ad Council campaign is being financed almost entirely by private sector funds from NeighborWorks partners.

The NeighborWorks campaign was in the top five of the most frequently aired Ad Council campaigns for 2008 and is currently in the top three. In June 2009, (the latest month for which data is available) the Ad Council ads aired more than 8,800 times on TV, radio and cable around the country.

In the fourth quarter of 2008 alone, the broadcast television ads in English reached more than 60 million households, while the Spanish broadcast television ads reached 14 million households. The value of donated media as of December 31, 2008 totaled more than $94 million. Today that number has surpassed the $100 million mark at $106,416,300.

Further, the website associated with the Ad Council campaign, foreclosurehelpandhope.org, received almost 470,000 hits in 2008.

NeighborWorks is also working to improve the technology tools available to housing counselors as they provide and track foreclosure assistance to homeowners. This has included updating the foreclosure modules in the homeownership client management systems, Counselor Max and Nstep, and working with Just Price Solutions on Best Fit – a tool to improve effective modifications and solutions.

NeighborWorks and the HOPE NOW Alliance

In order to expand the reach of the public education campaign, NeighborWorks has served as the key co-sponsor and logistics manager for the majority of the HOPE NOW Alliance's 2008 Homeownership Preservation Workshops outreach events. More than 20,000 families in-need attended the workshops in 29 of the cities hardest hit by foreclosures in 2008.

Community Stabilization
The corporation is also working on a variety of fronts to combat the impact of foreclosure, and particularly vacant or abandoned, bank-owned (REO) properties, on neighboring families and communities.

NeighborWorks has joined forces with other housing intermediaries including Enterprise Community Partners, the Housing Partnership Network, the Local Initiatives Support Corporation (LISC), the National Urban League, and the National Council of La Raza, to create the National Community Stabilization Trust to serve as a facilitator for the transfer of foreclosed and abandoned REO properties from financial institutions to local housing providers, returning the properties to the tax rolls and productive use in communities across the country.

The Stabilization Trust is designed to promote efficient transactions in a transparent manner that complies with the requirements of HUD's Neighborhood Stabilization Program.

National Foreclosure Mitigation Counseling Program (NFMC) Highlights
The NFMC Program was created by Congress to address the nationwide foreclosure crisis by dramatically increasing the availability of housing counseling for families at risk of foreclosure. The $180 million program was authorized through the FY 2008 Consolidated Appropriations Bill, which named NeighborWorks America as its administrator.

To date however, Congress has provided a total of $410 million to support the National Foreclosure Mitigation Counseling program, including:

- The aforementioned $180 million in the Consolidated Appropriations Act of 2008 (PL 110-161);
- $180 million in the Housing Economic Recovery Act of 2008 (PL 110-289); and
- The Omnibus Appropriations Act of 2009 (PL 111-8) provides an additional $50 million for mortgage foreclosure mitigation activities, for a continuation of the National Foreclosure Mitigation Counseling (NFMC) program in 2009.

The President's budget recommends an additional $33.8 million to continue the NFMC program into FY 2010.

Because of the foresight of Congress in funding the National Foreclosure Mitigation Counseling program, NeighborWorks has been providing funding and training to approximately 1,600 counseling agencies across the country, who are working hard to help homeowners find solutions to their individual problems.

These agencies in all 50 states, the District of Columbia and Puerto Rico have served well over 625,000 individuals and families facing foreclosure in the last 15 months. As of April 30, 2009, self-reported outcome data from Grantees show that 20% of NFMC clients were able to retain their homes according to data reported by the counselors, 30% were continuing in counseling, and 5% were foreclosed upon. The remaining had other outcomes, such as borrowers were counseled and referred to other agencies for social service or emergency assistance, entered bankruptcy or debt management program, referred for legal assistance, or withdrew from counseling.

The majority of families and individuals served by NFMC agencies are minorities (more than 53%) reflecting in part the disproportionate impact of subprime lending and the foreclosure crisis on minority families and communities. Even more significantly, 37% of NFMC clients live in communities that are more than 50% minority (compared with 25% of the U.S. population) – areas that were often targeted by predatory lenders and subprime brokers.

On a statewide level, more NFMC Program counseling was conducted in California than any other state – 66,404 units of counseling have been delivered in California. In Florida, 33,100 units of counseling have been delivered, and 27,960 units have been delivered in Ohio.

Top 10 States by Units Delivered

State	Counseling Units Delivered
California	66,404
Florida	33,100
Ohio	27,960
Maryland	21,858
Georgia	18,730
Michigan	18,110
Illinois	17,956
Pennsylvania	15,740
Minnesota	15,675
Texas	14,087

Source: NFMC Program Reported Data

Training / Building Foreclosure and Default Mitigation Counseling Capacity

The NFMC legislation directed NeighborWorks America to use up to $5 million of the funds from Round 1 and up to $5 million in funds each from Rounds 2 and Round 3, to build the mortgage foreclosure and default mitigation counseling capacity of counseling intermediaries and their partners. NeighborWorks America is training foreclosure counselors across the country through a combination of multi-course, week long trainings at NeighborWorks Training Institutes and other venues, local place-based training events and e-learning courses.

As of April 30, 2009:

4,475 scholarships have been provided to counselors and staff to attend trainings.

10,204 certificates of course completion have been issued. Of these, 2,549 certificates of course completion have been issued for the e-learning course Foreclosure Basics.

Hosted 46 local place-based training events in 30 states and regional multi-course training in 11 states, which enabled counselors to have training closer to home.

NFMC-funded Counseling in Conjunction with the "Making Home Affordable" Plan

The "Making Home Affordable" (MHA) plan is part of President Obama's broader Homeowner Affordability and Stability Plan (HASP), designed to get the economy and the housing market back on track. The "Making Home Affordable" plan could help up to 9 million families restructure or refinance their mortgages to avoid foreclosure.

A specific component of the "Making Home Affordable" plan includes foreclosure counseling. The "Making Home Affordable" plan specifies that borrowers with over 55% debt-to-income ratios must agree to meet with a counselor from a HUD-approved housing counseling agency or a National Foreclosure Mitigation Counseling Program counseling agency.

The NFMC Program has been modified to encourage participating foreclosure counseling agencies to work with troubled borrowers to create an action plan that includes steps and a timeline to eliminate unnecessary debt, minimize expenses, increase income and create savings. The action plan will also establish a follow-up schedule with the foreclosure counselor. A detailed protocol describing the required components of this counseling is posted at HUD's website at http://www.hud.gov/offices/hsg/sfh/hcc/fc/.

Under the terms of the "Making Home Affordable" program, servicers may refer borrowers to specific counseling agencies that provide foreclosure prevention services under the NFMC program or HUD Grant programs. Servicers may also direct borrowers to the nationwide Hope Hotline, 888-995-HOPE, and to NFMC- or HUD-funding foreclosure counseling agencies which can be located at http://www.hud.gov/offices/hsg/sfh/hcc/fc/.

To assist borrowers seeking approved counselors, NeighborWorks America has established a new web site, www.findaforeclosurecounselor.org, which lists all housing counseling agencies (both direct grantees and sub-grantees) funded through the National Foreclosure Mitigation Counseling Program, administered by NeighborWorks America, to provide borrowers with the information and assistance they need to avoid foreclosure through the Making Home Affordable program.

Anti-Scam Efforts

Finally, I would mention that the recently approved Omnibus Appropriations Act of 2009 included $6 million for NeighborWorks America to conduct a consumer mortgage public education campaign, aimed at helping troubled borrowers avoid the growing scourge of rescue scams, or mortgage modification scams.

NeighborWorks America has been consulting with a variety of groups regarding this growing problem, including state and federal regulatory agencies, the Federal Trade Commission, the National Association of Attorneys General, individual State Attorneys General, HUD, Treasury and others. We are making encouraging progress toward implementing an anti-scam public education campaign, and anticipate that we will be able to announce the specifics of this approach within the next 30 to 60 days.

Ken Wade, Chief Executive Office for NeighborWorks America, was privileged to be part of the April 6, 2009 announcement by Treasury Secretary Tim Geithner, U.S. Attorney General Eric Holder, HUD Secretary Shaun Donovan, FTC Chairman Jon Leibowitz and others, announcing the much-needed federal crackdown on foreclosure rescue scams.

Rescue scams are proliferating at a rapid pace and more homeowners are falling prey to the slick advertising and sales pitches that falsely 'guarantee' to keep them in their homes. The coordinated effort announced by the Administration aims to stop predatory and fraudulent 'rescue' practices not only through enforcement but also by educating vulnerable homeowners so they can avoid these scams in the first place.

NeighborWorks America is working with the FTC to develop a national public education campaign to make borrowers aware of how to avoid foreclosure prevention scam artists.
Homeowners in danger of foreclosure should never pay up-front for counseling help (though it is common for some to pay a nominal fee for a credit report), and should instead seek assistance from nonprofit housing counseling agencies that are HUD-approved or meet the standards for HUD approval including those found at www.findaforeclosurecounselor.org and www.makinghomeaffordable.gov.

NeighborWorks America has been working with the FTC and the federal and state agencies involved in the recent announcement to develop a comprehensive approach that draws on the resources and enforcement powers of the various regulatory agencies to stem the tide of rescue scams. This public education campaign will include advertising, direct borrower outreach and information, and will be coordinated with efforts by the FTC.

Foreclosure rescue scam artists frequently demand upfront payment for their services and "guarantee" to modify, refinance, or reinstate a borrower's mortgage. The payment demanded is typically anywhere from $1,000-$5,000.

One of our local affiliates, NeighborWorks Waco, located in Waco, Texas, recently worked with a homeowner who was scammed out of $2,000 by a company that promised to work with the borrower's lender to reinstate the homeowner's mortgage. In reality, the company did nothing, leaving the borrower with the same problem and without the borrower's $2,000.

Since January, NeighborWorks America has filed several trademark complaints with online search engines to protect consumers from falling prey to foreclosure rescue scams. The trademark complaints filed by NeighborWorks sought to remove online ads paid for by so-called mortgage rescue companies that used the NeighborWorks name and logo and offered foreclosure help for a fee. The companies have no affiliation with NeighborWorks.

Our message to borrowers is simple. If you are facing foreclosure, do not pay any person or company upfront for services. Homeowners facing foreclosure need to be aware that foreclosure rescue scam artists are out in full force and see this as a prime opportunity to make money.

Ohio Efforts

NeighborWorks America currently has nine member organizations that serve the State of Ohio. These organizations provide a variety of housing related services and have been active in helping to fight foreclosures throughout the State including partnering with other agencies and non-profit organizations. For example, the Ohio Collaborative consists of eleven Ohio nonprofit organizations that provide in-depth counseling services to homeowners and work with their servicers when homeowners are having trouble paying their mortgages.

To date, the Collaborative has received almost $5 million from the Ohio Department of Development and the Ohio Housing Finance Agency over the past three years for foreclosure counseling and rescue funds to catch borrowers up on their mortgages. Income limits are up to 140% of median income. Since the program started in 2006, 1,040 mortgages have been brought current. In addition, since 2006, the Collaborative has helped overall a total of 2,300 homeowners maintain their homes through foreclosure counseling. In Dayton, 100 rescue loans have been provided by St. Mary Development Corporation's Home Ownership Center of Greater Dayton and last year alone, The Home Ownership Center of Greater Dayton helped 203 homeowners keep their homes through foreclosure counseling.

The eleven Ohio organizations participating in the NeighborWorks® of Ohio Collaborative are The Home Ownership Center of Greater Cincinnati, Neighborhood Housing Services of Greater Cleveland, Columbus Housing Partnership, St. Mary Development Corporation in Dayton, East Akron Neighborhood Development Corporation, Neighborhood Housing Services of Hamilton, Neighborhood Development Services in Ravenna, Neighborhood Housing Partnership of Greater Springfield, Neighborhood Housing Services of Toledo, Rural Opportunities, Inc. Ohio and the Corporation for Ohio Appalachian Development (a non-NeighborWorks® organization).

All of the Ohio organizations receive funds from the National Foreclosure Mitigation Program to assist their foreclosure counseling efforts and many of the Ohio organizations are also participating in the Neighborhood Stabilization Program with their local municipalities. Ohio NeighborWorks organizations continue to be leaders in the fight against foreclosure.

In closing, I would like to highlight a few continued challenges:

For one, there still appears to be a lack of servicer responsiveness to the scale and scope of the foreclosure problem. Many foreclosure counselors continue to experience a significant level of inflexibility by lenders and servicers in regard to loan modifications and refinancing. It appears that modifications and workouts are all being considered in a unique, "one-off" manner.

This problem (inflexibility) has been exacerbated by falling home prices where the loan to value ratio exceeds the present appraised value of the property that is the security for the loan in foreclosure.

One approach that should be given serious consideration would be to take the negative equity debt and place it into a subordinate mortgage to a new refinanced mortgage, where no payments nor interest are due on the subordinate debt until the property is sold. This alternative would prevent a windfall to the mortgagor if home prices eventually rise and preserves as much as possible of the investment that the investors have made in the loan that is being refinanced.

I also encourage investors and servicers to develop more standardized approaches and rules to loan modifications and to share those with the counseling community so that we can all aggressively increase the volume of successful loan modifications and workouts.

The HOPE NOW Alliance has also identified the need for a sustainable funding model for quality housing counseling. It is imperative that servicers agree to a fee-for-service model to compensate housing counseling agencies for foreclosure counselors who are meeting standards and working with thousands of borrowers to find successful solutions. Thus far, foreclosure counseling services has been almost exclusively supported by public funds and charitable grants.

There also continues to be an unequal distribution of foreclosure counseling providers across the country, resulting in underserved areas and populations. This continues to be a particular challenge in rural areas and with linguistically isolated populations.

The disparate impact of the foreclosure problem on low-income and minority communities and populations is also troubling. Studies confirm that foreclosures are much more likely to occur in predominantly minority neighborhoods, even when all other variables such as borrower credit and income are held steady. Rising foreclosure rates are currently threatening decades of gains in minority homeownership and community revitalization. Recent studies conducted in Atlanta, Philadelphia and Baltimore confirm that lower income, minority neighborhoods are at greater risk for concentrations of foreclosures.

In order to protect vulnerable neighborhoods, foreclosure prevention efforts must be combined with comprehensive neighborhood stabilization efforts that put foreclosed units back into productive use, preventing the destructive downward cycle precipitated by vacant properties. Round 1 of HUD's Neighborhood Stabilization Program is out on the street and Round 2 applications are in review, and we are seeing unprecedented new partnerships at the local, regional, and even the national level. Counties and municipalities are working together with nonprofit community development organizations and for-profit developers and construction companies, and servicers are stepping up with new programs and working through the National Community Stabilization Trust to facilitate these efforts.

There continues to be a need for capacity building to support these new comprehensive neighborhood stabilization efforts. The Neighborhood Stabilization Program is built on a solid foundation of time-tested community revitalization principles that have been used by nonprofit organizations for decades, however on-the-ground capacity is lacking in many distressed communities. Round 2 is providing $50 million to local and national technical assistance providers but the funding is focused on meeting the technical requirements of the program. Additional funds are needed to provide working capital and operating support to nonprofit organizations that are struggling to ramp up capacity to meet the demand in a difficult funding environment. I urge you to consider the provision of additional capacity building funds, as well as continued support for another round of program funding, to be offered through a competitive funding process to ensure the funds reach those organizations that have the potential to make the program a success.

Federal, state, local governments and nonprofit organizations will have to continue to work together with private industry to address the foreclosure crisis and its impact on our communities.

I again thank you for the opportunity to testify and am ready to answer any questions you might have.

Alan Mallach – Senior Fellow, Brookings Institution

STATEMENT BY ALAN MALLACH ON FEDERAL HOUSING POLICY

CONGRESSIONAL FIELD HEARING
DAYTON, OHIO AUGUST 26, 2009

Congressman Turner, Ladies and Gentlemen:

I am a Nonresident Senior Fellow at the Brookings Institution in Washington DC, and I have spent much of my adult life working on housing and urban policy issues. I am pleased and honored to be able to offer some thoughts on federal housing policy as it affects Dayton, Ohio, along with the many other cities throughout the United States facing similar problems and opportunities.

Before talking specifically about federal policies, I'd like to say a few words about Dayton, and point out some particular issues that are particularly relevant to the question of housing policy.

Dayton is a classic American industrial city. Like many other similar cities, it has been losing population and jobs steadily since the 1960's. That has particular consequences for its housing conditions and its housing needs. I've put together some key information on the city's housing picture and long-term trends in Table 1.

Some of the main points from Table 1 are

- Dayton has been steadily losing families and housing units. But the loss of housing has lagged behind the loss of population. Dayton today has 4 times the number of vacant units it had in 1960

- Nearly 1 out of 5 units in Dayton is vacant – of these more than half are what the Census calls "other vacant. " Roughly 1 in 10 units are vacant and neither being offered for sale or rent nor being held for future occupancy.

- The biggest losses have come in home ownership – the number of homeowners in Dayton has dropped by nearly 14,000 – or nearly 1/3 – since 1960.

The basic point is that the Dayton housing market is not strong. The demand is less than the supply. As a result, rents and sales prices are both low, but even with low prices, houses go begging. Many of these houses will end up being abandoned.

Dayton is not a single housing market – if we look at HMDA data by census tract, we find a more complicated picture:

- In 2006, 17 out of the city's 58 census tracts – or less than 1/3 – accounted for 77% of all the home purchases, and 93% of the aggregate value.
- Another 14 tracts, at the other end, accounted for only 6% of the home purchases.

Dayton is divided into three different types of housing market – it has some strong market areas, mostly in the north and east of the city. Other areas, mostly in the west, have been heavily disinvested, and have far more housing supply than demand. Some parts of these areas may no longer be viable neighborhoods in a meaningful sense. And there is a third group that is in between, and is struggling.

What does this mean for federal housing policy?

I'll start with some general points. These apply not only to Dayton, but to many other cities. First, Dayton does not need more housing units. Dayton has more housing units already than the potential demand.

That leaves three critical needs:

- First, vacant properties – most of these properties will need to be demolished, and the city does not have the resources to get ahead of the curve.
- Second, stabilizing neighborhoods at risk. Without strong, market-sensitive strategies, other neighborhoods could go the way of areas that are already too deeply disinvested to regain vitality.
- Finally, coming up with long-term strategies for the areas being vacated.

People in Dayton are already grappling with these issues. But they lack the tools and resources to deal with them effectively and above all, strategically. This is where federal housing policy needs to focus – to help cities like Dayton deal with their reality.

I'd like to suggest some federal policy directions in three areas – dealing with vacant properties, neighborhood stabilization, and housing production.

Cities desperately need help dealing with vacant properties. Cities need to provide more effective code enforcement and nuisance abatement, to minimize the harm they do to the neighborhood's quality of life and property values; they need to be able to demolish properties that no longer serve a useful purpose; and they need to be able to gain control of properties, so they can see that they are reused in the ways that best enhance the city's future.

This is not just a matter of dollars. It involves capacity – do cities have the trained personnel they need, are they using available technology effectively, do they have the management systems in place to make the best use of their resources? It involves political will – are cities and counties ready to take responsibility for their vacant land inventory, the way Genesee County has in Michigan, or Cuyahoga County is beginning to. It involves state government giving cities and counties the legal tools to do the job.

The federal government can provide money to local government for these activities, but unless the other pieces are put in place, more money won't change the condition of the cities meaningfully. The federal government should approach this question strategically – how can it use its resources to leverage the kind of planning, capacity-building and systems change – at the local and at the state level – that these cities need? The Community Regeneration Act is an excellent beginning in this area, but far more is needed – a truly strategic approach to the future of cities like Dayton, that not only helps them deal with their immediate problems, but helps them think through their long-term strategy – how they can become stronger, healthier smaller cities.

Neighborhood stabilization is equally important. Dayton needs to be able to preserve its still-vital, thriving neighborhoods, and bring back areas that have been destabilized by vacant properties and foreclosures, but are still salvageable and are capable of drawing market demand.

I commend Congress and the Administration for the two neighborhood stabilization programs – NSP1 last summer, and NSP2 earlier this year in the stimulus bill. But the NSP program is much too focused on specific property transactions, as well as far too hemmed in with restrictions. What is needed is a real neighborhood stabilization program, that looks closely at market forces, and provides the flexibility for cities and CDCs to carry out comprehensive strategies – to deal with properties, but also with foreclosure prevention, market building, and quality of life issues. Instead of appropriating any more money to fund a third round using the NSP template, Congress and the Administration should start from scratch, and write new legislation designed to support effective, comprehensive local stabilization strategies.

Any new programs should be competitive. The fact that NSP2 is a competitive program – even before the awards have been made – has already led to more good planning and more creative partnerships at the local level than ever before. Formula programs in this area are feel-good programs – everybody gets a little something, but little really happens. They do not lead to change.

Finally, I'd like to speak briefly about affordable housing programs. We need to get away from thinking about affordable housing almost entirely in terms of producing new units. The Low Income Tax Credit Program, which is by far the largest federal affordable housing program except for housing vouchers is almost entirely focused on creating new housing. The housing is usually beautiful – it is also extremely expensive. When it is built in a city like Dayton, however, it can create more problems than it solves.

Look at Table 2. This shows rents in Dayton by number of bedrooms. The data is for 2000, but it is unlikely that things have changed significantly since then. What it shows is that private market rents in Dayton are not only lower, but much lower than the rents charged in new Tax Credit projects. I might add that the current rental vacancy rate in Dayton is roughly 13%.

What this means is that whenever a new Tax Credit project is built in Dayton, it draws its tenants out of private market housing – not the poor quality low-end housing where rents are far lower than in the Tax Credit projects, but decent mid-range housing. Further, because rental vacancy rates are already way too high, those houses and apartments are likely to be added to the already too-high total of vacant properties in the city, further destabilizing the city's neighborhoods. New Tax Credit projects may make good photo ops, but they may be doing more harm than good to the city's fabric of neighborhoods.

For a fraction of the cost of building new housing, the federal government could help private landlords upgrade their properties. Combined with effective, targeted – not complaint-driven – code enforcement, that made sure that landlords who did not upgrade their properties would face sanctions, Dayton could improve housing conditions for far more low income families at far less cost.

I urge you to consider not just tweaking the Low Income Tax Credit program, but fundamentally rethinking how it is used. One suggestion I'd offer is to create what I call a "preservation pool option", that would allow states to make tax credit allocations not for specific projects, but for housing preservation pools, that would be used by municipal governments or CDCs to fund programs to improve privately-owned housing renting at affordable rents.

I'd like to close with a plea. It's been a long, long time since we've had new, creative thinking nationally about housing and community revitalization. CDBG is 35 years old, the Low Income Tax Credit is 23 years old, HOME has been around for nearly 20 years. The time is long overdue for a serious, thoughtful look at what housing and community rebuilding programs and strategies are needed today – and how the federal government can help Dayton and the many other cities and towns begin the process of change they urgently need.

Thank you.

David H. Hehman- President/CEO, Federal Home Loan Bank of Cincinnati

Statement of

David H. Hehman
President and CEO
Federal Home Loan Bank of Cincinnati

Before the

Northeast-Midwest Institute Forum

"Impact of the Housing Crisis on Local Communities and the Federal Response to the Crisis"

Dayton, Ohio
August 26, 2009

Secretary Donovan, Congressman Turner, Members of the Revitalizing Older Cities Congressional Task Force, Members of the Northeast-Midwest Institute and distinguished members of this panel, I appreciate the opportunity to speak to you today on behalf of the Federal Home Loan Bank of Cincinnati (Cincinnati Bank) about the role our Bank has played to help restore balance to the housing finance market and, specifically, to assist at-risk homeowners. My name is David Hehman and I am President and Chief Executive Officer of the Cincinnati Bank.

The Cincinnati Bank is one of 12 regional Federal Home Loan Banks established by Congress in 1932 to provide liquidity to community lenders engaged in residential mortgage lending and economic development. For more than 75 years we have fulfilled this housing finance mission with a successful cooperative structure comprised of local lenders and regional management. Our primary business is the provision of low-cost credit in the form of secured loans, or "Advances," to members. Our members, in turn, use these Advances to fund their daily credit needs such as originating mortgage loans, investing in community projects or managing their own balance sheets. A targeted part of our mission was mandated by Congress 20 years ago in the Financial Institutions Reform Recovery and Enforcement Act of 1989, whereby the FHLBanks set aside 10 percent of profits annually to fund affordable housing for persons at or below 80 percent of area median income. This highly successful initiative will be further discussed as our most effective tool to address the housing needs of our communities. The Cincinnati Bank's 739 member institutions serve the Fifth FHLBank District of Kentucky, Ohio and Tennessee.

Addressing the Current Housing Environment

Economically and socially, the state of Ohio has been negatively affected by the substantial rise in residential foreclosure activity. Since 2000, annual home foreclosures in Ohio have more than doubled, with a concentration in the northeastern part of the state, according to state and federal court records. Although questionable lending practices of some within the housing finance industry have contributed to the rise in home foreclosures, the underlying economics of the region are a significant factor. A declining manufacturing base, related job losses and a demographic shift have made it difficult to sustain a meaningful recovery.

The impact of foreclosure is substantial to both homeowners and their communities. Rising home vacancies can lead to a range of problems for affected neighborhoods, from declining home values to increased crime to an erosion of the municipal tax base and community destabilization. For these reasons the Cincinnati Bank has a strong interest in working with our member financial institutions and community housing partners to develop meaningful foreclosure assistance programs.

The Cincinnati Bank's role in the current housing environment increased dramatically beginning in 2007, due to the extraordinary disruptions in the credit and mortgage markets that have continued to date. Industry access to liquidity was substantially restricted and FHLBank members increasingly turned to us to support their daily funding needs. Demand for our core product, Advances, rose to historic levels, growing by more than 27 percent during 2007 to $53.0 billon. This level of Advance usage by our members was sustained throughout 2008, with an outstanding year-end balance of $52.8 billion. This unprecedented activity occurred during the FHLBanks' transition to a new regulator, the Federal Housing Finance Agency, as required under the Housing and Economic Recovery Act of 2008. The Cincinnati Bank has seen a return to more usual, or even below average, levels of Advance activity in 2009, with Advances of $44.1 billion at June 30, 2009. We attribute this decline to the prolonged economic recession, a rise in consumer deposits, and the various government initiatives to stimulate liquidity combined with Federal Reserve Bank monetary policy designed to hold short-term interest rates to historic lows. While this is not a business model the private sector emulates, it precisely demonstrates the flexibility with which the FHLBank cooperative structure was designed. In order to be responsive to market volatility, the FHLBanks must be able to expand and contract with members' needs. The Cincinnati Bank has remained profitable, paying a 4.5 percent dividend to members in the first and second quarters of 2009, and adding $30 million to retained earnings during the first six months of 2009.

While meeting our congressionally mandated liquidity mission has been a full-time job, our Board of Directors and management have also engaged in a series of activities to assess the scope of the foreclosure issue within the Fifth District and develop interventions. Through the combination of input from our members, direction from our Housing Advisory Council and leadership by our Board of Directors, we have pursued three different housing programs.

Federal Home Loan Bank Programs

We have learned from our members and our housing partners that the current housing crisis is a problem with many facets and, accordingly, solutions must come from many different angles. Recognizing this, our Board authorized the implementation of three specific foreclosure mitigation programs that address the problem in different ways, and a fourth program is under development for consideration by our Board of Directors.

The first program is called HomeProtect. In this program, we made available to our members $250 million in Advances at our cost, targeting these funds to help our members refinance homeowners at risk of delinquency or foreclosure. We instituted this program in June 2007, and have approved commitments of more than $138 million since then.

Second, we have taken actions to direct more of our congressionally established Affordable Housing Program (AHP) funds toward the foreclosure situation. The AHP is our largest housing initiative, and it has the most impact in our district. Since 1990, we have committed $301.4 million to responsibly create more than 42,000 units of affordable housing in Kentucky, Ohio and Tennessee. We award grants and subsidized Advances through a competitive process, individually scoring each application based on the merits of the project and characteristics of the clientele being served. Beginning in 2008, the FHLBank adjusted the scoring of applications to favor projects that will return abandoned homes to occupancy or address projects in high-foreclosure areas. We recognize the detrimental effect that abandoned homes have in neighborhoods throughout our district, and we believe this effort is helping communities recover from the effects of the foreclosure crisis. With these new scoring criteria, we are seeing funds directed to those areas of Ohio that have been hardest hit.

Third, in both 2008 and 2009, our Board has supported a voluntary program called Preserving the American Dream, providing a total of $6 million for foreclosure counseling and mitigation. In discussing the foreclosure issue with our Board of Directors and our housing Advisory Council, we learned we could help many families avoid foreclosure with just a few thousand dollars, to help them become current on their mortgages or to cover the costs of refinancing. The Cincinnati Bank provides up to $3,500 per household, through our members and qualified non-profit counseling agencies, to assist with foreclosure mitigation. In the Dayton area, FHLBank members Wright-Patt Credit Union, Day Air Credit Union, Fifth Third Bank, Liberty Savings Bank, National City Bank, River Credit Union and Universal 1 Credit Union joined housing partners St. Mary Development Corporation and HomeOwnership Center of Greater Dayton to participate in this program.

Since 2003, our Board has disbursed nearly $15 million of voluntary funds to specific housing programs. This commitment has helped provide downpayment assistance to minorities and those with special needs. We have also been able to create set-asides for special situations. After Hurricane Katrina devastated New Orleans, for instance, we set aside funds to provide downpayment assistance to households displaced by the hurricane and relocated into our district.

There is a fourth program which we are developing as a result of recently announced regulatory authority permitting the use of a portion of the AHP to refinance existing mortgages. Pending our Board of Directors' review and approval, I anticipate that the Cincinnati Bank will make funds available to support reasonable principal reduction or closing costs incurred with the refinancing of owner-occupied housing being used as primary residences by low- and moderate-income homeowners in our service District.

Along with these four programs, we have taken additional actions. On our web site, www.fhlbcin.com, we established a Foreclosure Guidance page, where we describe our programs and share links to other resources. Our members tell us that early communication is critical to keeping residents in their homes, and we urge consumers to engage in early communication with their lenders.

In addition, we have lent our expertise to several efforts that are pulling together community resources to address the situation. Ohio initiatives have included participation in Governor Strickland's Foreclosure Prevention Task Force; in a bi-partisan Ohio Congressional Roundtable in Washington, DC, in 2007; and in a Congressional Field Hearing in Cleveland, Ohio, in 2008.

Results and Challenges

How have these efforts worked so far? We have experienced modest success with HomeProtect. Unfortunately, the level of discount does not fully compensate for the risk involved to lenders that did not originate the loan. Our experience is that many stressed homeowners did not originate mortgages with Cincinnati Bank members. Unwinding such loans that have been sliced, repackaged and resold has proven difficult, at best, to restructure.

Our flagship program, the AHP, has proven a reliable, stable source of funding for 20 years. Our new scoring priority has directed over $10 million toward more than 30 projects creating nearly 800 units targeting vacant properties or those located in high foreclosure areas. The AHP continues to have a positive impact throughout our service area, and it has always balanced the community needs for affordable rental housing with owner-occupied housing. A valuable lesson for many in the current crisis is that the door to financial stability does not always open to an owner-occupied home. In fact, nearly 75 percent of the units in the Cincinnati Bank's competitive AHP, outside the subset of grants reserved for homeownership, are rental units. Access to both rental and owner-occupied units of safe, decent, affordable housing provide stability to families and individuals at different stages of their lives.

The Cincinnati Bank's voluntary programs, including Preserving the American Dream, speak to the flexible nature of the FHLBank cooperative structure. As of June 30, 2009, we had provided more than 800 homeowners with workouts or counseling. While the numbers are modest, the ripple effect reaches beyond the homeowners to their extended families, their communities, their schools, and to the lending community that has a new cooperative model for helping its customers and neighbors. To the degree that the FHLBank and our partners can remain free of program restrictions, we maintain greater flexibility to respond in a timely manner with new, innovative approaches.

Conclusion

The current housing crisis was years in the making. It cannot be solved overnight nor can it be fixed with a one-size-fits-all solution. Flexible, collaborative efforts that involve all interested parties will be critical to the development and execution of effective solutions. That is why we have chosen to address the problem from several different perspectives. The Cincinnati Bank, its 739 members and hundreds of housing partners, is working diligently to provide long-term solutions over time to create and maintain healthy communities and cities.

James Cunningham, Field Office Director, Department of Housing and Urban Development

U.S. Department of Housing and Urban Development
Cincinnati Field Office, Region V
632 Vine Street, Fifth Floor
Cincinnati, OH 45202-2401

Written Testimony of James A. Cunningham, Field Office Director, Cincinnati Office of the United States Department of Housing and Urban Development

On behalf of Housing and Urban Development Secretary Shaun Donovan I want to thank you for the opportunity to discuss the Department's response to the housing and foreclosure crisis. Congress has provided HUD with several tools to help prevent foreclosures as well as respond to the aftermath, vacant and abandoned properties.

First and foremost HUD and the Federal Housing Administration have stepped up to respond to the credit crisis. FHA lenders are providing new home loans and refinance options with a consumer friendly mortgage product. FHA's market share has increased from about three percent to over thirty percent. In addition, FHA's loss mitigation offers existing homeowners with options to prevent foreclosure, saving over half of defaulted FHA loans in the State of Ohio. The Department also funds and supports a network of housing counseling agencies that provide borrowers with assistance in working with their mortgage servicers to prevent foreclosure.

Last month Secretary Donovan announced FHA's Home Affordable Modification Program that allows FHA borrowers to significantly reduce their monthly mortgage payments by seeking a loan modification through their current mortgage company or loan servicer. This coupled with the expansion of the Administration's Making Home Affordable will significantly increase the help available to homeowners.

The Department is also charged with carrying out programs from the Housing and Economic Recovery Act of 2008 and the American Recovery and Reinvestment Act of 2009. The Department's recovery act programs have three main goals:

First, promoting energy efficiency and creating green jobs: Roughly one-third of HUD's Recovery Act funds are aimed at "greening" the public and assisted housing stock, while at the same time contributing to the creation of a new industry for increasing residential energy efficiency. Programs include additional public housing capital funds and the multifamily green retro-fit program.

Second, unlocking the credit markets and supporting shovel-ready projects: Another third of HUD's Recovery Act funds are aimed at addressing the sharp decline in the market for low-income housing tax credits by providing "gap financing" to existing tax credit projects that have subsequently stalled or been delayed. Similarly, additional project-based rental assistance is expected to support the maintenance of properties that may have otherwise been neglected.

Finally, mitigating the effects of the economic crisis and preventing community decline: The last third of HUD's Recovery Act funds are targeted at stabilizing households and communities that have been impacted by the current economic crisis. These funds are aimed at households at risk of homelessness and neighborhoods particularly hard hit by the foreclosure crisis. I want to focus on these programs.

Neighborhood Stabilization Program

The program has two phases, under NSP1, HUD allocated $3.92 billion on a formula basis to 309 grantees including 55 states and territories and 254 selected local governments, $11.57 million was allocated to Dayton and Montgomery County. The program is designed to stabilize communities across America hardest hit by foreclosures. Grant agreements for these funds have already been signed.

Under NSP2, HUD allocated $1.93 billion on a competitive basis to states, local governments, and non-profit organizations. The program objectives and eligible uses did not change under the Recovery Act, but the allocation process and some regulations on the funds have changed. The deadline to apply for NSP2 funding was July 17, 2009.

Community Development Block Grant

Congress appropriated an additional $1 billion in Community Development Block Grant funds to be allocated to approximately 1,200 grantees using the existing CDBG formula. That includes $2.4 million to four local communities (Dayton, Montgomery County, Kettering and Fairborn). Funds will target state and local community development projects, with a particular emphasis on infrastructure activities, in order to stabilize communities, generate jobs and support future economic growth

Homelessness Prevention and Rapid Re-Housing Program ($1.5B)

$1.5 billion has been allocated to state and local governments using the Emergency Shelter Grant (ESG) formula, including $3.35 million to Dayton and Montgomery County. Funds will support the rapid re-housing of homeless persons and families who enter shelters, as well as significantly expanding efforts to prevent homelessness for those facing severe economic strain.

The Department of Housing and Urban Development looks forward to helping homeowners stay in their homes, keeping the American dream of homeownership accessible and affordable, and working with our community partners to address the causes and results of the housing and foreclosure crisis. Thank you, and I look forward to answering any questions you may have at this time.

About the Northeast-Midwest Institute

Organization Mission Statement: The Northeast-Midwest Institute is a Washington-based, private, nonprofit, and nonpartisan research organization dedicated to economic vitality, environmental quality, and regional equity for 18 Northeast and Midwest states. Formed in the mid-1970's, it fulfills its mission by conducting research and analysis, developing and advancing innovative policy, providing evaluation of key federal programs, disseminating information, and highlighting sound economic and environmental technologies and practices. The Institute is a 501(c)(3) organization whose work is funded through grants from foundations and contracts with federal and state agencies.

General Background: The Northeast-Midwest Institute is unique among policy centers because of its close ties to Congress thanks to the bipartisan Northeast-Midwest Congressional and Senate Coalitions that represent Connecticut, Delaware, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and Wisconsin. In the 111th Congress the House Coalition is co-chaired by Reps. James Oberstar (D-MN) and Steven LaTourette (R-OH) and the Northeast-Midwest Senate Coalition is currently chaired by Senators Jack Reed (D-RI) and Olympia Snowe (R-ME). The Institute also works closely with issue- and place-based Congressional task forces, including the Chesapeake Bay Watershed Task Force, Delaware River Basin Task Force, Great Lakes Task Force, House and Senate Task Forces on Manufacturing, Upper Mississippi River Task Force, and the Revitalizing Older Cities Congressional Task Force.

Throughout its history, the Institute has broken new ground in shaping federal and regional policy. For example, on the environmental front, the Institute advanced the National Invasive Species Act to prevent the occurrence and spread of biological pollution, and we advanced numerous other federal pollution prevention laws as well. The Institute has obtained funding for environmental research and monitoring of the Chesapeake Bay, Great Lakes, and Upper Mississippi River, and promoted the first law to clean up contaminated sediments. To strengthen the Northeast and Midwest economies, the Institute established the dual Community Development Block Grant (CDBG) funding formula that helps rebuild older communities, and that made brownfield cleanup and redevelopment a CDBG-eligible activity. Staff at the Institute have worked to increase funding for a national network of manufacturing extension centers and to protect Amtrak routes and advanced high-speed rail in the region. In addition, the Institute has helped develop legislation to assist nonprofit groups transform vacant land and brownfields into parks and other community assets.

Congressional and Senate Coalition members pay dues to support shared Congressional employees. These staffers, or "legislative directors," work in House and Senate offices and act as liaisons between Congress and the Institute. The Northeast-Midwest legislative directors now work in the offices of Senators Jack Reed (D-RI) and Carl Levin (D-MI) and Rep. James Oberstar (D-MN). Working with these legislative directors and at their request, the Institute provides support, information, and research that are used as underpinnings of sound public policies advanced by the NEMW lawmakers to benefit the region.

Existing Programs and General Scope of Work: The Institute's current programmatic strengths include: protecting the region's watersheds from pollution; cleaning up the region's contaminated sites; enhancing the region's access to trade; fostering the region's manufacturing base; protecting the region's farms while increasing the access of its underserved urban residents to healthful food; seeking restoration of the region's great water bodies; protecting both the aquatic and terrestrial ecosystems of the region from invasive species; revitalizing the economies of the region's older industrial cities; and seeking the repair of the region's aging infrastructure.

Through its work in these program areas, the Institute has established a national reputation for analyzing issues from a regional perspective, for generating public policy recommendations, for identifying stakeholders and leading coalitions, and for educating policymakers on a range of issues that affect the region's economic viability and environmental health. As a result of recent efforts by the Institute and its partners, federal legislators have increased their attention to the challenges facing older industrial cities. During the 110th Congress the Northeast-Midwest Congressional Coalition formed the Revitalizing Older Cities Task Force—a group of Members who share the common goal of advancing the federal role in efforts to revitalize older industrial cities. Under the leadership of co-chairs Brian Higgins (D-NY) and Michael Turner (R-OH), and with the Institute's help, that task force has grown to 29 members.

As part of its *Revitalizing Older Cities Initiative* the Institute works closely with the task force and researches a variety of federal policy areas, providing valuable information to Congress about programs that can significantly enhance the prosperity and general livability of older industrial communities. An important tenet of the older cities initiative is the recognition that the overall prosperity of our nation can only be measured by the economic and social health of our country's urban areas and older industrial communities. To advance this principle, the Institute primarily focuses its *Revitalizing Older Cities Initiative* research on housing, transportation, water infrastructure, economic and workforce development, vacant properties and brownfields, urban livability, and energy/environment policies.

NORTHEAST-MIDWEST INSTITUTE
CENTER FOR POLICY INITIATIVES

The Northeast-Midwest Institute, 50 F Street NW, Suite 950, Washington, D.C. 20001
www.nemw.org

Mr. KUCINICH. I thank the gentleman, and I thank you for the opportunity to work with you on this, and also my other colleagues on this committee.

We are now going to hear testimony from the witnesses. The subcommittee is going to receive testimony from a witness on the first panel. Ms. Phyllis Caldwell is the Chief of the Office of Homeownership Preservation at the U.S. Department of Treasury. Ms. Caldwell oversees management of the Obama administration's Making Home Affordable program. Previously Ms. Caldwell was president of the Washington Area Women's Foundation, a public foundation solely focused on improving the lives of women and girls by fostering philanthropic giving in the Washington metropolitan area.

Ms. Caldwell, I want to thank you for being before this subcommittee. It is the policy of the Committee on Oversight and Government Reform to swear in all witnesses before they testify, and I would ask that you please rise and raise your hand.

[Witness sworn.]

Mr. KUCINICH. Let the record reflect that the witness answered in the affirmative.

Ms. Caldwell, I ask that you give a brief summary of your testimony. Please try to keep that summary under 5 minutes in duration. Your complete written statement will be included in the hearing record, and I ask that you proceed.

STATEMENT OF PHYLLIS CALDWELL, CHIEF HOMEOWNERSHIP PRESERVATION OFFICER, U.S. DEPARTMENT OF TREASURY

Ms. CALDWELL. Well, Chairman Kucinich, Ranking Member Jordan, thank you for the opportunity to testify today about the Treasury Department's comprehensive initiatives to stabilize the U.S. housing market.

It has been 1 year since the launch of Making Home Affordable of which the Home Affordable Modification Program [HAMP], is a key component. Today HAMP is making significant progress with over 1 million trial modifications started, yet we recognize the challenges remaining. We continue to monitor and update program guidelines, to improve implementation and help more homeowners.

At the end of January, nearly 1 million homeowners were in active trial or permanent modifications. More than 116,000 homeowners now have permanent modifications, nearly doubling the number from December. An additional 76,000 permanent modifications have been offered and are waiting only for the borrowers' signature.

Homeowners in modifications are achieving significant savings on their mortgage payments, over $500 per month on average. And HAMP has proven that it is helping homeowners who have faced real financial hardship. Nearly 60 percent of borrowers in permanent modifications have faced a reduction in income, including loss of wages or hours, or unemployment of a spouse.

But it's important to remember that HAMP is just one part of the administration's broader effort to stabilize the housing market. Together the Treasury and the Federal Reserve have purchased over $1 trillion in agency mortgage-backed securities, helping to keep interest rates at historic lows. Millions of Americans have been able to refinance their mortgages into lower-rate 30-year, fixed-rate mortgages, saving an average of $1,500 per year on a refinance. And thanks to the recently extended first-time homebuyer tax credit, more Americans are now able to reenter the housing market and stem the slide in home values.

Through HUD's Neighborhood Stabilization Program, hundreds of communities across the country are taking important steps to restore and maintain properties in neighborhoods that have been hardest hit by concentrated foreclosures and home price declines.

Finally, the administration last Friday announced that it will allocate $1.5 billion to work with State housing finance agencies to help address the foreclosure problems in the five States that have been the hardest hit by the aftermath of the burst of the housing bubble as measured by housing prices. Eligible housing finance agencies means the funding on a number of homeowner support programs, including programs for unemployed borrowers, for reducing the burden of negative equity or for addressing challenges that arise from second liens. And while there is still significant risks, we are seeing some signs of emerging stability. Housing inventories continue to fall. House prices measured on a year-over-year basis are declining less rapidly, with some house price measures posting increases in recent months. Data released by the Mortgage Bankers Association on February 19th showed that the 30-day delinquency rates on one to four-unit residential mortgages fell in the first quarter along with the number of new foreclosures started.

Going forward, we recognize that there are still a number of challenges ahead. The permanent modification conversion campaign in December and January yielded valuable insights for program improvements. We have made a number of program changes to improve implementation. For example, at the end of January, Treasury released guidance which requires greater income documentation prior to beginning a trial modification. A simple and standard package of documents will be required prior to the servicer's evaluation of the borrower for a trial modification. We took these steps to speed up the process of conversions from trial to permanent modifications in the future. This new upfront documentation will be required for all new HAMP modifications that become effective after June 1st, although mortgage servicers may implement it sooner.

And we continue to make more changes to improve implementation. One important improvement we are working on now is protections for homeowners to ensure that the modification process treats borrowers fairly. Treasury anticipates releasing guidance soon which will include a set of improved protections for homeowners in the HAMP mortgage modification program. Notably the package will standardize outreach for homeowners who fall behind in their mortgages, and make an offer to include them in HAMP if they qualify.

Additionally, we recognize that the foreclosure process is often confusing to homeowners already in distress, and we have been regularly reviewing guidelines around the process as part of our ongoing commitment to ensuring transparency and maximizing program effectiveness.

HAMP has made great progress in its first year. We look forward to working with you to enhance the program's performance and to help keep American families in their homes. Thank you.

Mr. KUCINICH. Thank you very much, Ms. Caldwell, for your testimony.

[The prepared statement of Ms. Caldwell follows:]

February 25, 2010

Testimony of

Phyllis R. Caldwell

Chief of the Homeownership Preservation Office of the Department of Treasury

Before the House Committee on Oversight and Government Reform Domestic Policy Subcommittee

"Foreclosures Continue: What Needs to Change in the Administration's Response"

Chairman Kucinich and Ranking Member Jordan, thank you for the opportunity to testify today on the Administration's comprehensive initiatives to stabilize the U.S. housing market and support homeowners. We recently marked the one-year anniversary of President Obama's Administration and the launch of Making Home Affordable (MHA). Making Home Affordable is a key part of the Administration's broad housing initiatives, which have had a substantial impact in helping to stabilize the U.S. housing market and prevent avoidable foreclosures. The Home Affordable Modification Program (HAMP) is one of the central parts of Making Home Affordable. In one year, HAMP has made significant progress, achieving rapid implementation of the first nationwide mortgage modification program designed to prevent avoidable foreclosures. However, challenges remain and we need to do more to help American homeowners. HAMP was designed to be dynamic, and we continue to work to improve the program's efficiency and scope.

Unlike any previous foreclosure-mitigation effort, HAMP defines a standard for an affordable and sustainable modification across the industry, set at 31% of gross monthly income. Over 100 servicers are participating in HAMP. These servicers, when combined with thousands of Fannie Mae and Freddie Mac servicers participating in the program, service nearly 90% of eligible outstanding mortgage debt in all 50 states, the District of Columbia, and the U.S. territories. Nearly one million borrowers are now in trial or permanent modifications, with median savings of over $500 per month in mortgage payments. In aggregate, HAMP modifications have saved American homeowners over $2.2 billion already. Over 116,000 homeowners have permanent modifications, an additional 76,000 have pending permanent modifications, and the rate of conversions from temporary to permanent modifications continues to increase. HAMP is providing critical assistance to borrowers experiencing a range of financial hardships and who would otherwise be facing the loss of their homes.

HAMP is an important part of the Administration's broader, multi-pronged effort to stabilize the housing market. We have provided broad support to Fannie Mae and Freddie Mac to ensure confidence in those institutions and continued access to affordable mortgage credit across the market. Together, the Treasury Mortgage-Backed Securities (MBS) purchase program and the Federal Reserve have purchased over $1 trillion in agency MBS, helping to keep interest rates at historic lows. Millions of Americans have been able to refinance their mortgages into lower rate, 30-year fixed-rate mortgages, saving an average of $1,500 per year on a refinance. Thanks to the recently extended homebuyer tax credit, more Americans are now able to re-enter the housing market and stem the slide in home values. Through HUD's Neighborhood Stabilization Program, hundreds of communities across the country are taking important steps to restore and maintain properties in neighborhoods hardest hit by concentrated foreclosures and home price declines. Finally, the Administration last Friday announced that it will allocate $1.5 billion to work with state housing finance agencies (HFAs) to help address the foreclosure problems in the five states that have been hit the hardest by the aftermath of the burst of the housing bubble, as measured by housing prices.

There are clear signs that our efforts are having a substantial impact. While there are still risks, we are seeing signs of stabilization in housing, as housing inventories continue to fall. House prices, measured on a year-over-year basis, are declining less rapidly, with some house price measures posting increases in recent months. According to data just released by the Mortgage Bankers Association on February 19, 30-day delinquency rates on one-to-four unit residential mortgages fell in the fourth quarter along with the number of new foreclosures started.

We continue to improve HAMP implementation, understanding that we face many challenges: reaching more borrowers who are eligible for the program, but who often don't know how to get help or are not starting trial modifications even when approved; helping more borrowers in trial modifications convert to permanent modifications so sustainable help can be offered; and continuing to improve transparency and the borrower experience, so the public can be confident the program is assisting eligible homeowners as intended.

Over the past months, we have released guidance designed to enhance the implementation of HAMP and to maximize the capacity of the program to assist eligible borrowers. In December, we launched a comprehensive conversion drive to ensure that borrowers in trial periods submitted complete documentation and received a final decision from the servicer in a timely manner.

HAMP is Achieving Real Results: Over One Million Homeowners Have Started Trial Modifications

When President Obama's modification initiative was launched in February 2009, we estimated that the program would provide a second chance for up to three to four million borrowers through the end of 2012. We are on pace to meet that goal.

Through the end of January, servicers report they have reached out to approximately 1.3 million borrowers to offer them an opportunity to be considered for HAMP, and sent out over 3.5 million letters containing information about HAMP to potentially eligible borrowers. Cumulatively, more than 1 million borrowers have started trial modifications since the program's inception. Through January, over 116,000 borrowers have received permanent modifications and more than 76,000 offers of permanent modifications have been sent to borrowers and are awaiting acceptance by the borrowers. Borrowers in permanent modifications have median savings of over $500 per month in mortgage payments.

HAMP mortgages provide significant relief in the near-term and noteworthy affordability for the long-term. Initially, borrowers benefit from a payment reduction to 31% of their gross monthly income. After five years, the rate steps up gradually to the prevailing interest rate at the time the modification became permanent, currently at historic lows. As a result, borrowers in permanent modifications will benefit from long-term affordability.

In addition, as we review the causes of hardship among borrowers in permanent modifications, we find that the majority of permanent modifications – approximately 57% – are helping people who have experienced a curtailment in income, for example, a reduction in hours or wages, or the unemployment of a spouse.

Though the modification program is making significant progress, we need to do more. We continue to work with servicers to improve their capacity to both evaluate eligible borrowers and provide conversion decisions in a timely manner. Since the announcement of the conversion campaign in December, the pace of conversions has doubled month-over-month. With the release of new program guidance at the end of January that requires greater upfront documentation, we took steps to ensure that the program does not experience a backlog of trial modifications going forward.

HAMP is One Component of the Administration's Overall Response to the Mortgage Crisis

On February 18, 2009, the Administration announced the *Homeowner Affordability and Stability Plan* – a broad set of programs, of which HAMP is a key component, designed to stabilize the U.S. housing market and help keep homeowners in their homes.

The Administration has taken broad action to stabilize the housing market, including providing support for mortgage affordability across the market. The Federal Housing Administration has played an important counter-cyclical role, stepping up with improved liquidity for housing purchases at a time when private lending declined. Continued support for Fannie Mae and Freddie Mac and the Treasury's Mortgage-Backed Securities (MBS) purchase program, along with MBS purchases by the Federal Reserve have helped to keep interest rates at historic lows. For example, on a median house purchase of $200,000, a one-percent reduction in the interest rates on a purchase or refinance saves a family over $120 per month – $1,500 per year – for the 30-year life of the loan – real help for America's homeowners.

The Administration also recognized that while many homeowners were paying their mortgages on time, they might not be able to refinance to take advantage of today's lower mortgage rates due to a decrease in the value of their homes. As part of MHA, the Administration announced expanded refinancing flexibilities for the GSEs, as well as the

Home Affordable Refinance Program (HARP) for homeowners with mortgages up to 125% of the current value of their homes. Historically low interest rates along with expanded GSE refinancing flexibilities have helped over four million borrowers to refinance over the past year, many of whom would have otherwise not been able to refinance. Homeowners are saving an estimated $150 per month on average from each refinance and have saved more than $6.8 billion in total.

The Housing Finance Agencies Initiative announced on October 19, 2009, implemented under the Housing and Economic Recovery Act of 2008, supports state and local housing finance agencies in providing sustainable homeownership and rental resources for working Americans in all 50 states. The First Time Homebuyer Tax Credit has helped hundreds of thousands of Americans purchase homes. The American Recovery and Reinvestment Act of 2009 supported the Low Income Housing Tax Credit market by creating an innovative Tax Credit Exchange Program (TCEP) and providing gap financing through the HUD Tax Credit Assistance Program (TCAP). In combination, these two programs are estimated to provide over $5 billion in support for affordable rental housing.

The Recovery Act provided $2 billion in support for the Neighborhood Stabilization Program (NSP) in addition to $4 billion provided for the program in the Housing and Economic Recovery Act. The Recovery Act funds were awarded on a competitive basis, designed to rebuild value in areas struggling with foreclosures and blight. These targeted funds were distributed nationwide, but with a strong emphasis on cities most in need and with the strongest capacity to rebuild. The five states that received the highest per-capita awards under NSP were: Michigan ($224 million); Florida ($348 million); Arizona ($117 million); Ohio ($175 million); and Illinois ($160 million).

Last Friday, the Administration announced plans to allocate $1.5 billion from TARP to work with state housing finance agencies (HFAs) to help address the housing problems in the states that have been hit the hardest by the aftermath of the burst of the housing bubble. The states that received funding are those which had average housing price declines of over 20% since the peak, and the allocation among those states is based on house price decline and the unemployment rate in each state. Eligible HFAs may use the funding on a number of programs to support homeowners and prevent avoidable foreclosures, including programs to target unemployed borrowers, programs to lighten the burden of negative equity, and programs to address challenges arising from second liens.

HAMP Guiding Principles

HAMP is built around three core concepts, designed to help the large segment of at-risk homeowners where foreclosure is both avoidable and where the homeowner wants to stay in the home.

First, the program focuses on affordability, in an effort to ensure that borrowers who want to remain in their homes will be able to afford the modified mortgage payment structure.

Every modification under the program must lower the borrower's monthly mortgage payment to 31% of the borrower's monthly gross income. The borrower's modified monthly payment of 31% debt to income (DTI) will remain in place for five years, provided the borrower remains current. We believe HAMP creates newly modified loans that homeowners can both afford and understand.

Second, HAMP's "pay for success" structure aligns the interests of servicers, investors and borrowers in ways that encourage loan modifications that will be both affordable for borrowers over the long term and cost-effective for taxpayers. HAMP offers "pay for success" incentives to servicers, investors and borrowers for successful modifications. Servicers receive an up-front payment of $1,000 for each successful modification after completion of the trial modification period, and "pay for success" fees of up to $1,000 per year for three years, provided the borrower remains current. Homeowners may earn up to $1,000 towards principal reduction each year for five years if they remain current and pay on time. HAMP also matches reductions in monthly payments dollar-for-dollar with the investor from 38% to 31% DTI. This requires the investor to take the first loss in reducing the borrower payment down to a 38% DTI, ensuring that investors share in the burden of achieving affordability. To encourage the modification of current loans expected to default, HAMP provides additional incentives to servicers and investors after current loans are modified.

Third, participating servicers are required to evaluate every eligible loan using a standard Net Present Value (NPV) test. If the test is positive, the servicer must modify the loan. This requirement both ensures that modifications are economically beneficial and helps prevent mortgage servicers from engaging in "adverse selection" and denying assistance to borrowers at greater risk of foreclosure.

HAMP Goals and Structure

Today, many borrowers are delinquent on their mortgages, on the verge of default, or are facing foreclosure due to one or more of the following reasons:

- Some were put in unsustainable loans;
- Many have seen their incomes decline;
- And some just bought too much home in the hopes of being able to refinance or sell after further appreciation.

HAMP is designed to help an important segment of these borrowers who are currently at-risk of foreclosure or who will be at risk prior to the end of 2012. The program is targeted to help homeowners who:

- Occupy their home as their primary residence;
- Have a loan balance less than $729,750;
- Took out their mortgage prior to Jan. 1, 2009;
- Have a mortgage payment that is greater than 31% of their gross monthly income; and
- Can afford to make a reasonable payment on a modified mortgage.

For the millions of homeowners who may be eligible for HAMP, the program provides a critical opportunity to stay in their homes, and as a result it is helping to maintain stability in communities across the country. However, it will not reach the many borrowers who do not meet the eligibility criteria and was not designed to help every struggling homeowner. We unfortunately should expect millions of foreclosures that HAMP cannot prevent due to long-term unemployment, jumbo mortgages, and other factors, as President Obama made clear when he announced the program last February.

Implementing a Comprehensive Compliance Framework

The HAMP Compliance Program is designed to ensure that servicers are satisfying their obligations under the HAMP Servicer Participation Agreements (SPAs).

Freddie Mac is the Compliance Agent for HAMP and has established a separate and independent division to conduct its compliance activities, named MHA-C. Treasury works closely with MHA-C to design and refine the compliance program and conducts quality assessments of the activities performed by MHA-C. Four major activities comprise the compliance program, which are conducted by MHA-C using an integrated and risk-based approach. The four activities include:

- On-site Reviews – These reviews consist of assessing servicers' internal controls and processes associated with the implementation of HAMP requirements.

- Loan file Reviews – These reviews are conducted on-site or off-site with the purpose of:
    - Assessing whether the documentation in the loan file supports the servicers' conclusion regarding HAMP eligibility; and
    - Comparing selected information in the loan files with data in the servicers' systems and *IR2*, the database containing HAMP loan-level information.

- NPV testing and assessments – These assessments consist of testing servicers' proprietary systems to determine if HAMP NPV requirements were appropriately implemented. Because NPV calculations are a key component to eligibility, Treasury requires servicers to participate in NPV testing with MHA-C before using the servicers' own applications. MHA-C has created a pre-implementation testing mechanism as well as a post-implementation compliance regime to help ensure servicers' NPV calculations and processes meet HAMP requirements.

- Targeted Reviews – These reviews focus on one or more specific processes or types of reviews listed above based on compliance trends, risk analysis or actual compliance activities results.

MHA-C has reported in servicer reviews that quality control activities, anti-fraud programs and other internal controls specific to HAMP continue to develop as the servicers' HAMP-related processes mature during their implementation of the program.

Generally, MHA-C has found that servicers are following HAMP guidelines. Where anomalies occur, Treasury assesses the severity based on information provided by MHA-C as well as other sources and determines further courses of action.

Testing of each servicer's NPV process before implementation, as described above, requires the servicers' results to be within strict thresholds of NPV processes. In addition, Freddie Mac conducts post-implementation NPV process reviews. These reviews have found some anomalies at servicers. Based on the anomalies, servicers are required to revert to the NPV tool available through the HAMP portal to ensure borrowers are not disadvantaged.

Stages of HAMP Implementation

HAMP has established a national, standardized modification program—one that has led the way in setting an industry standard for affordable and sustainable mortgage modification. HAMP has been a catalyst for change by incentivizing servicers to develop the capacity and resources necessary to execute modifications on a large scale. In addition, HAMP's eligibility criteria and standardized way of looking at applications created for the first time a systematic and quantitative framework for evaluating large numbers of individual borrowers for modifications. Nearly 90% of the outstanding mortgage debt in the country is now covered by HAMP. In the last quarter of 2009, the number of participating servicers increased from 63 to 102 and is now 110. In addition, about 2,300 lenders servicing loans owned or guaranteed by Fannie Mae or Freddie Mac are required to consider those loans for HAMP.

To provide a context for the evolution of HAMP, it is important to remember that prior to its establishment, there was a lack of industry consensus on standards for valuing mortgage modifications within the loss mitigation waterfall. This meant that the industry neither agreed on nor possessed a standard process for mortgage modifications, an affordability standard or standard timelines by which modifications would be processed. By setting affordability standards, sound underwriting guidelines, a waterfall approach (which refers to a specific sequence of steps to follow when modifying a loan), and a defined timeframe for responding to modification requests, HAMP has begun to systematize across servicers the method and process for modifying loans. This has brought more efficiency and transparency to modifications, though challenges clearly remain.

Below, we provide further details about the progress of HAMP implementation and how Treasury continues to update HAMP guidance.

March through November 2009: HAMP Ramp Up

The MHA programs were announced on February 18, 2009 and detailed guidelines for HAMP modifications were released on March 4, 2009. Supplemental Directive 09-01: *Introduction of the Home Affordable Modification Program* was released on April 6,

2009. The first servicer agreements to participate in HAMP were signed by servicers beginning in April 2009.

Building Capacity and Meeting Demand:
During the first several months of the program, Treasury and its financial agent, Fannie Mae, focused on signing servicers up for HAMP and expanding the reach of the program into all sectors of the mortgage market – GSE, private label securities, and portfolio mortgages.

During the early months of the program, we urged servicers to quickly ramp up operations, expand their call centers and build out their support staff. By July 2009, about 20,000 to 25,000 homeowners were starting trial modifications each week. In July, we set the goal of 500,000 trial modifications started by November 1. The program surpassed that goal in early October – nearly one month ahead of schedule.

Comprehensive Outreach – 2009
Treasury launched an aggressive borrower outreach campaign focusing on raising awareness, educating partners and the general public, and housing counselor training. In June, Treasury began an aggressive multi-city outreach tour which started in Miami, and has now been to over 23 cities reaching over 25,000 borrowers. These events include counselor training seminars, partner roundtables with community leaders and locally elected officials, and events for borrowers to meet with servicers and counselors to determine whether they are eligible and, if so, submit their HAMP application documents.

In addition, Treasury also developed the MakingHomeAffordable.gov website as the main portal for borrowers, counselors, and others to learn about the program and obtain the necessary paperwork to complete a modification request.

Continued Implementation

We have also continued to implement the various parts of HAMP, including:

- **Home Price Decline Payments** – In May 2009 the Administration announced that HAMP would include Home Price Decline Protection (HPDP) incentives, designed to provide additional incentives for modifications where home price declines have been most severe. On July 31, 2009, we announced detailed guidelines for implementing HPDP. Servicers were required to include the HPDP incentives in their NPV calculations as of September, allowing more borrowers in the geographic areas hardest hit by home price declines to obtain modifications. [See *Supplemental Directive 09-04: Home Price Decline Protection Incentives*]

- **Second Lien Program** – In April 2009, the Administration announced the Second Lien Modification Program (*2MP*), which creates a comprehensive solution to help borrowers achieve greater affordability by lowering payments on both first lien and second lien mortgage loans. In addition to providing the basis for lien holders to share the cost of modifications, 2MP also supports efforts to reduce total borrower indebtedness by providing the option for second lien holders to receive lump sum payments to extinguish liens entirely. Through this option, borrowers may be able to improve their equity position.

Servicers of a majority of second liens in the country have committed to participate in 2MP. As part of 2MP, we have developed a new technology platform that will allow first and second liens on the same property to share information – an innovation in the mortgage servicing industry that will improve transparency in the market as a whole.
[See *Supplemental Directive 09-05: Introduction of the Second Lien Modification Program*]

- **Enhanced Data Collection** – In September 2009, we announced additional details and guidelines defining servicers' data collection responsibilities. Servicers are, among other things, required to collect data on the race and ethnicity of borrowers that may provide insights into the program's effect on different communities. Additionally, servicers were required to establish data fields indicating reasons why borrowers were not approved for the HAMP, which is a critical aid to verifying that servicers have complied with program rules.
[See *Supplemental Directive 09-06: Data Collection and Reporting Requirements Guidance*]

- **Streamlined Documentation** – On October 8, 2009, Treasury announced streamlined documentation requirements to simplify and speed up the modification process for both borrowers and servicers. This streamlined application process implements internet capabilities that allow borrowers to fill-in, download and print standardized documents to send to their servicer.
[See *Supplemental Directive 09-07: Streamlined Borrower Evaluation Process*]

- **Required Written Non-Approval Notices** – On November 3, 2009, Treasury issued guidance to require that written borrower notices, providing specific details about the reason for non-approval and contact information to follow-up on or appeal the decision, be sent to every borrower that has been evaluated for HAMP but is not offered a trial modification or a permanent HAMP modification. Borrower notices improve the quality of communication with servicers and provide borrowers with information about appealing a non-approval decision.
[See *Supplemental Directive 09-08: Borrower Notices*]

- **Foreclosure Alternatives** – First announced in May 2009, foreclosure alternatives, known as short sales and deeds-in-lieu, are a key component of MHA. On November 30, 2009, Treasury published detailed guidance for the Foreclosure Alternatives program. This guidance requires servicers to commit to a written policy determining how short sales or deeds-in-lieu will be offered under this program. This program streamlines the short sale and deed-in-lieu processes, and offers incentives to lenders and borrowers for pursuing these alternatives to foreclosure.
[See *Supplemental Directive 09-09: Introduction of Home Affordable Foreclosure Alternatives*]

Conversion Campaign: December 2009- January 2010

On November 30, 2009, Treasury launched a comprehensive conversion campaign focused on reaching homeowners who are eligible for permanent mortgage modifications. The mortgage modification conversion drive included several key elements:

- We required the seven largest HAMP servicers (representing nearly 90% of all trial modifications) to submit conversion plans demonstrating their ability to reach a decision on each loan for which they have documentation and to communicate a decision to those borrowers on or before January 31, 2010. We also required HAMP servicers to submit their strategy for obtaining documentation from borrowers who are currently making payments under a trial modification but have not submitted all of their documentation. Treasury reviewed the adequacy of these plans and required servicers to correct any deficiencies.

- Treasury and Fannie Mae staff were assigned to perform on-site reviews at the top seven servicers. The embedded teams monitored daily progress against the servicers' plans and helped resolve policy issues that were impeding the conversion process. Daily progress was aggregated at the end of each business day and reported to the Administration.

- We also enhanced communication tools for borrowers on our website to make conversion easier. Newly added features include: an instructional video, which provides step by step instructions for borrowers; links to all of the required documents and an income verification checklist to help borrowers request a modification in four easy steps; a conversion guide for borrowers who are in a trial modification; and an outreach toolkit for housing counselors, and state, local and community leaders to use in their direct outreach to constituents.

- To help facilitate these direct outreach activities, Treasury engaged all levels of government to both increase awareness of the program and expand their available resources to borrowers as they navigate the modification process. We have been working with groups including the National Governors Association (NGA), National League of Cities (NLC) and National Association of Counties (NACo) to connect with thousands of offices stationed on the frontlines in large and small communities across the country that have been hardest hit by the foreclosure crisis.

As a result of our implementation efforts, the number of borrowers entering into permanent modifications almost quadrupled from just over 30,000 at the beginning of December to over 116,000 permanent modifications and 76,000 pending permanent modifications at the end of January.

Upfront Documentation

At the end of January, Treasury released Supplemental Directive 10-01: *Program Update and Resolution of Active Trial Modifications*, which requires more income documentation prior to beginning a trial modification. A simple and standard package of documents will be required prior to the servicer's evaluation of the borrower for a trial modification. This process will be required for all new HAMP modifications that become effective after June 1, although mortgage servicers may implement it sooner.

Reaching Borrowers, Bankruptcy, and Foreclosure

Treasury anticipates releasing guidance soon which will include a set of improved protections for borrowers in the HAMP mortgage modification program. Notably, the package will standardize outreach required to borrowers who fall behind in their mortgages, and make an offer to include them in HAMP if they qualify. Changes would likely be incorporated as the HAMP program moves to upfront documentation requirements this spring.

HAMP guidelines have always prohibited homes from going to foreclosure sale while borrowers are being evaluated for a modification. Foreclosure processes differ among states, and the process is often confusing to homeowners already facing distress. Treasury has been reviewing guidelines around outreach and the foreclosure process as part of its continual assessment of program effectiveness and transparency.

Improving Transparency

As more detailed data is collected from servicers and validated through Treasury's data processing systems, Treasury intends to release reports with greater detail on servicer performance. Later this year, the public reports will include operational metrics to measure the performance of each servicer in categories such as average time to pick up incoming borrower calls and the percent of borrowers personally contacted.

Transparency of the NPV model – a key component of the eligibility test – is also important. Treasury has worked to increase understanding of the NPV model among housing advocates, consumer groups, and the general public. The program's administrative website, www.HMPadmin.com, contains two documents – an NPV white paper and more in-depth documentation of the current NPV Base Model – that are publicly available for download. These documents provide extensive details describing the model's analytical framework and equations.

Additionally, guidance issued in November 2009 requires servicers to report a list of certain input fields used in a borrower's NPV test if the borrower (or the borrower's advocate) requests those values within 30 calendar days of receiving a notice of non-approval. The servicer must provide the inputs to the borrower within 10 calendar days of the request and the servicer may not complete a foreclosure sale until 30 calendar days after delivering the NPV values to the borrower. This will allow the borrower time to make a request to correct any values that may have been inaccurate.

Treasury is continuing to work on ways to increase access to a functional NPV model for housing counselors. One of the key challenges here is creating a standardized, broad-based online tool that accurately approximates the results of a specific servicer's NPV test, which relies on certain proprietary information. An inaccurate public model is of limited use to counselors as a tool to screen borrowers, and it may also confuse rather than inform the public about the HAMP NPV test. With these challenges in mind, we continue to explore options for a counselor tool. We are meeting with housing counselors to discuss their concerns and provide them with the tools they need to assist distressed homeowners applying for modifications.

Borrower Portal

In early 2010, HUD-approved housing counselors will be able to take advantage of web capabilities offered by HOPE NOW's new web portal – the HOPE LoanPort. According to HOPE NOW, the new portal will allow counselors to help borrowers collect the necessary HAMP documents, upload the completed package directly to servicers and track the status of a borrower's application.

Borrower Outreach 2010

As we enter 2010, we have strengthened our outreach activities in an effort to reach even more borrowers, and to prompt them to seek help more quickly. In the spring, Treasury will be launching a Public Service Announcement (PSA) campaign in partnership with the Ad Council. This campaign will feature PSAs on television, radio, outdoor signage, and the Internet, as well as flyers and other print promotional materials.

An important part of our 2010 outreach is the continuation of our multi-city outreach tour. To reach more borrowers even more efficiently, we are working collaboratively with Fannie Mae, Freddie Mac, HOPE NOW, and NeighborWorks America. 2010 events include, but are not limited to, stops in the following cities:

- Ft. Myers and Ft. Lauderdale, Florida
- Sacramento, San Bernardino, and Anaheim, California
- Reno and Las Vegas, Nevada
- Phoenix and Tucson, Arizona
- Houston, Texas
- Seattle, Washington
- Portland, Oregon

For 2010, we are trying to go deeper and broader into markets where we can make a real difference. Too many homeowners wait until they are 60 or 90 days delinquent before they raise a hand for help. And too many homeowners are being duped by scam artists who offer limited help or make matters worse. We want to reach people earlier and get them to reach back earlier, so they can get the help they need to avoid foreclosure.

Conclusion

HAMP continues to improve and we still have much work to do in reaching borrowers and improving program efficiency. In January, the number of permanent modifications increased to more than 116,000 with an additional 76,000 offers of permanent modifications sent to borrowers. There have been nearly 1.3 million trial modification offers extended with over 1 million trial plans started since the program's inception. With each modification, the typical borrower saves over $500 per month, translating to more than $2.2 billion so far in aggregate savings from trial and permanent modifications.

The program, however, is not designed to prevent every foreclosure. HAMP does not offer assistance to investors and speculators nor is it available to wealthier Americans, defaulters in vacation homes, or borrowers who walked away. It is one part of a comprehensive Administration housing policy that in aggregate has reached millions of borrowers through providing opportunities for modifications, refinancings, new home purchases, and more stable neighborhoods and home prices. The goal of HAMP is to provide responsible homeowners eligible for the program a second chance to stay in their homes. HAMP has had a significant impact in reaching those struggling homeowners. Overall, the Administration's broad housing policies over the past year have helped to stabilize the housing market and prevent avoidable foreclosures. The outlook in the housing sector now depends largely on the continued improvement in the larger economy. We are starting to see signs of housing market stabilization and look forward to continued progress in the housing market.

Mr. KUCINICH. Last week the administration announced a $1.5 billion program to help five States deal with the foreclosure crisis. But in designing that program, you excluded a number of hard-hit, long-suffering States such as Ohio, Pennsylvania, Texas, to name just a few.

I have here a letter from a dozen members of the Ohio delegation. It's a letter that is circulated by myself and Congressman LaTourette, signed by Democrats and Republicans alike, demanding to know how you could possibly justify the exclusion of Ohio from any foreclosure initiative. And I ask for your answer now before this subcommittee.

[The information referred to follows:]

Congress of the United States
Washington, DC 20515

February 25, 2010

The Honorable Barack Obama
President of the United States
The White House
Washington, DC 20500

Dear Mr. President:

On Friday, you announced the creation of a $1.5 billion "innovation fund" that will provide grants to a limited number of state housing finance agencies so that they can develop foreclosure mitigation efforts that are tailored to local needs. You stated that this money will go to "the states that are hardest hit by this housing crisis."

According to published news reports and the Speaker's office, the five states included in the plan are California, Nevada, Arizona, Michigan, and Florida--five states that have suffered, no doubt. But these states are far from all of the hardest hit.

By almost any metric, Ohio has been ravaged by the foreclosure crisis, which is why many Ohioans are dismayed by Ohio's absence from the list of states targeted to receive help. Ohio--due to the prevalence of predatory lending, lax regulatory oversight, and distressed economic conditions--was a bellwether for the national foreclosure crisis. Ohio began to experience rising defaults and foreclosures for years before the problem was recognized by the federal government. Yet, Ohioans have received too little help from the government. Under the Home Affordable Modification Program (HAMP), Ohio currently ranks 48th out of 51 states (including Washington, D.C.) in terms of the proportion of delinquent mortgage loans that have been addressed by HAMP. Your latest initiative identifies recipient states on the basis, not of foreclosure intensity, but on declining home values over 20%. The foreclosure crisis is not limited to states meeting that criterion. The continuing need for help to prevent foreclosures continues to grow in Ohio. According to the Supreme Court of Ohio, the number of new foreclosure filings set a record in 2009.

You can understand our concern, then, that two of your administration's foreclosure mitigation efforts have failed to provide sufficient and proportional assistance to Ohio's homeowners. We therefore urge you to reconsider the approach taken thus far and request that you reassess the criteria you are using to include Ohio and other states that were similarly and unfairly left out.

Thank you for your consideration of our insistence on this point.

Sincerely,

Dennis J. Kucinich
Member of Congress

Steven C. LaTourette
Member of Congress

Marcia L. Fudge
Member of Congress

Betty Sutton
Member of Congress

Michael R. Turner
Member of Congress

Tim Ryan
Member of Congress

Steve Driehaus
Member of Congress

Marcy Kaptur
Member of Congress

Mary Jo Kilroy
Member of Congress

Charles A. Wilson
Member of Congress

John A. Boccieri
Member of Congress

Zachary T. Space
Member of Congress

Patrick J. Tiberi
Member of Congress

Ms. CALDWELL. Well, first let me say having testified in your district in Cleveland a few months ago, we really understand that there are residents suffering in the State of Ohio and in Cleveland in particular. And I think it's important to also set the context that HAMP and the programs announced last week are just one part of a broader administration's—the broader administration's efforts to stabilize housing. And Ohio was the recipient of over $145 million in neighborhood stabilization grants, including $40 million in Cuyahoga County, to deal with the very real foreclosure processes that were in place before HAMP was even started.

But I think stepping back to the announcement last week, as Representative Cummings said, negative equity is a severe problem, and we had to start somewhere. And so we looked at those markets that had price declines of over 20 percent based on the peak to trough, and those markets are the markets that are going to be the target of this particular program.

Mr. KUCINICH. I noted that in looking at the States that you chose, all but one of the States in that new initiative are so-called Sun States. I know they've been hit hard, but they don't have a monopoly on the pain caused by the foreclosure crisis and predatory lending.

What assurance can you give this committee that future administration initiatives will not similarly focus primarily on the Sun States to the exclusion of the hard-hit Midwestern States like Ohio?

Ms. CALDWELL. Mr. Chairman, I think it's very important to understand that we have a broad array of initiatives, and while this particular one was focused on those States that had very high rapid price declines on purchased homes, every day we are studying the problems facing homeownership in American families and continue to iterate our programs to address those needs.

Mr. KUCINICH. When you make a major public unveiling of this kind of initiative in Ohio where we, particularly in the Cleveland area, are acutely aware of the kind of help that other areas are getting, and we're standing there with massive amounts of—massive areas that have been foreclosed, some of which, unfortunately, have been abandoned, your explanation, well, that's your explanation, is not really acceptable, because when you have these initiatives, you're still setting priorities.

That's the message you're sending out. And you're going to have to do better. You're going to have to be able to come back to those of us who are in the Midwest and come up with some specific programs, not—you know, we appreciate the neighborhood stabilization, that's fine, I just won $145 million. You're talking about a $1.5 billion program you announced. We know the difference. And Ohio, you know—and our area is the epicenter of the subprime meltdown. That's not the only problem.

I'm going to—I have one more question here. Banks and investors are holding millions of mortgages that are not worth anything near their paper value. The value of the houses that secure this debt has fallen to just a fraction. These bankers and investors have no hope to ever recoup their investment. But even after they get a taxpayers' bailout, these bankers and investors refuse to write down the losses. So far the government hasn't seemed willing to ask the bankers and investors to pay their fair share. HAMP hasn't resulted in many principal reductions.

Now, the American people are wondering, is it the political influence of the very banks and investors that taxpayers bailed out that is causing you to avoid taking the necessary step of promoting principal reduction in the Federal response to the foreclosure crisis, and when is the administration going to roll out a real program for getting principal reduction?

Ms. Caldwell.

Ms. CALDWELL. Mr. Chairman, we continue to speak about principal reduction and the challenge facing real American families who wake up every day and realize that the value of the largest asset that they have is below what they owe on the house. So we have continued to study how we can make negative equity and principal reduction work better for HAMP.

Currently the program allows lenders to take principal reduction at any point in time in the modification. But one of the things that we've learned is most of the people who are underwater on their mortgage default after they've had an employment shock or income shock. And so this program was designed to target that affordability payment and keep them in their homes, recognizing that we continue to put pressure on the financial institutions to sign up for our second lien program so that we can have more principal writedown on the second liens and continue to have more on the first.

Mr. KUCINICH. I'm going to ask the committee to just indulge me in a quick followup.

So what's stopping Treasury from writing down the principal of those loans and thereby giving the borrower a more affordable mortgage?

Ms. CALDWELL. I think as we step back and look at HAMP, I think it's important to remember that when this program was started, we were looking at a crisis of epic proportion and a mortgage industry and a program that was largely voluntary where there were mortgages, there were servicers, there were investors, and there were banks. And while many people look at the place where they write their checks, and they see the name of the bank, and they think that's where their mortgage is, when their mortgage, in fact, has been sold to an investor. And one of the things that this program has done over the last year is brought together banks, borrowers, servicers and investors to reshape a mortgage modification industry that last year was just about collecting payments. This is about keeping people in their homes with affordable payments. And I think the next stage is to look at how we can enhance the program to continue to address the challenges that go forward.

Mr. KUCINICH. Thank you, Ms. Caldwell.

The Chair recognizes Mr. Jordan.

Mr. JORDAN. Thank you, Mr. Chairman.

And, Ms. Caldwell, thank you again for being with us a second time.

In your testimony you say in 1 year HAMP has made significant progress. The numbers we have as of the end of last month, January 31, 2010, HAMP had achieved just over 116,000 permanent mortgage modifications, again, the stated goal being 3 to 4 million. So I guess my question is is that really significant progress?

Ms. CALDWELL. Member Jordan, I think it's important as we step back and look at the program goals, the program was set out to provide an opportunity for 3 to 4 million homeowners to have a chance at a mortgage modification from program inception, which was a year ago, through the end of 2012. In its first year we have 1 million homeowners in trial modifications, and in those trial modifications, they are realizing close to 40 percent reduction in their monthly payment.

Mr. JORDAN. Let me ask you this: Do you expect by 2012 to have 3 to 4 million homeowners in a permanent status? A trial is one thing. I mean, that's your term, "trial modification," so trial is not there, it's trial. So do you expect it to get to the goal, stated goal, right from the outset, 3 to 4 million—do you expect to get to that number in 2 years based on the fact only 116,000 are there today after 1 year?

Ms. CALDWELL. Well, again, just to reclarify the goal, I think—first let me just say we have never seen a mortgage crisis of this proportion, so it's too soon 1 year in the program to talk about what will happen 2 years out. But the program is designed to offer 3 to 4 million homeowners an opportunity for a mortgage modification, not a permanent modification, an opportunity. And 1 year in we have 1 million homeowners saving $500 a month in modification.

Mr. JORDAN. I'm sure you're working hard, and I just question this whole idea that the big Federal Government can do these kind of things. They come out with a promise, we're going to do—I mean, we're going to do a stimulus plan, it's going to keep unemployment at 8 percent; we're going to do a home modification program, we're going to help 3 or 4 million people, and we've done 116,000 in 1 year; but we're going to get to 4 million, we promise, promise, promise by 2012. I mean, do you, yes or no, do you think by 2012, 2 years from today, you will have 3 to 4 million people in a permanent modification plan?

Ms. CALDWELL. I'll just say, again, we're 1 year into a mortgage modification program that is at a scale that has never been done in history, and it's really too soon to predict what will happen in 2012.

Mr. JORDAN. OK. Let me move to a second one. Let's go to the transparency issue, if I could, Mr. Chairman, and if I run out of time, I will wait until the second round. Let's go to—can we put up slide 1, I think?

This is the number of requests. And I guess my question is going to go to—they're going to be hard to see. Let me just cut right to the chase. Why did you decide to quit—if I understand, in July of last year, August, September, October, November, every month on your Web site you were putting up the number of requests for financial information. And here the last 2 months you've decided not to display that number. Is there a reason why you decided not to put that number up? And if you had continued the practice you started with, what would the number be today?

Ms. CALDWELL. Well, first of all, let me just emphasize that since its inception the HAMP program has been focused on affordability, stability and transparency. And so we are very committed to transparency of the program.

Mr. JORDAN. But you admit you're no longer putting that piece of information up.

Ms. CALDWELL. Correct. The number you're referencing there was removed because it was confusing to the public. Just to clarify, the number is the number of requests for information that lenders send or servicers send to their entire portfolio of 60-day delinquent borrowers. It's not a measure that has anything to do with applications to HAMP or the Making Home Affordable program. That's just a measure of solicitations or inquiries on any modification. And many people were confusing it with HAMP, and so we removed it because it was causing confusion in the report.

Mr. JORDAN. Well, I mean, you've heard from taxpayers, you've hear from American citizens that was confusing, or you just decided that it was confusing?

Ms. CALDWELL. We heard from a number of people on conference calls, on Hill visits and press visits. But if it's an important number to the public, we'll put it back in.

To your question on what would it be today, it's about 3.5 million.

Mr. JORDAN. So it's up. So you'll make a commitment to put that number back up there.

Ms. CALDWELL. We will, but with more clarity that it relates to overall solicitations, not just HAMP.

Mr. JORDAN. I think that's a good thing. Transparency is transparency. The American people are smart people. They put Kucinich and Jordan in Congress. No, I'm kidding. They can figure it out, so I think that's something that should be up there.

Thank you, Mr. Chairman. I yield back.

Mr. KUCINICH. I thank the gentleman.

The Chair recognizes the gentleman from Maryland. Mr. Cummings, you may proceed.

Mr. CUMMINGS. Thank you very much, Ms. Caldwell.

What does the average trial modification—what's the savings for the borrower in a trial modification, and is that different than the savings in the permanent?

Ms. CALDWELL. In terms of the data collection, we don't have exact data on the savings in a trial modification, but if there's been no change in the borrower's income, it should be the same. And so our population has a median savings of just over $500 per month.

Mr. CUMMINGS. So in other words, when they negotiate the trial, if they don't—if their income doesn't change when they move to that date that would make them permanent, then you would assume it's pretty much the same, right?

Ms. CALDWELL. Right. Because it's based on affordability, on 31 percent debt to income.

Mr. CUMMINGS. It was reported in the press on Monday that Treasury plans to implement changes to HAMP, including a prohibition against lenders filing foreclosures while a borrower is in the modification process. Are you familiar with that, right?

Ms. CALDWELL. I am familiar, yes.

Mr. CUMMINGS. And I'm very pleased about that because I cannot tell you how many people in my event on Saturday and the two previous events that we had said that their lender went ahead with filing foreclosure while they were in the process.

If you could please run down other changes in HAMP that are being considered? Are there other things that are being considered?

Ms. CALDWELL. Well, let me just first back up to the changes that you reference that were mentioned in the paper earlier this week. Those have not been confirmed or approved; those are changes under discussion. And as a program that has multiple stakeholders, those were changes that are being recommended, considered and were being vetted with stakeholders, and that were leaked to the press in advance of approval. And I think everyone in this room has experienced an advance leak. So that certainly is along the lines of what is being considered, but it is not yet finalized. In terms of——

Mr. CUMMINGS. Let me just ask you real quick. And what would be the process for finalizing those things that have been leaked to the press?

Ms. CALDWELL. Full approval within Treasury.

Mr. CUMMINGS. And——

Ms. CALDWELL. But let me go on to say just in terms of future iterations to the program, every single day my office is looking at the homeowner experience in this program and what we can do to make it better. And so we have continually made adaptations, and we will continue to iterate until we are doing the service that we need to have to American homeowners.

Mr. CUMMINGS. Is there a—tell me about the sense of urgency with regard to the one change that we just talked about with regard to not putting people out while they are trying to modify.

Ms. CALDWELL. Well, let me just be clear at the front. The HAMP current guidelines prohibit a home from going to foreclosure sale while the homeowner is in HAMP trial modification. And so these changes are not—these changes are designed to enhance the communications so that homeowners have a clear understanding of their rights, and that they know that their home cannot go to sale while they are in a HAMP modification. That has been the case since the program was started.

Mr. CUMMINGS. And how important is it that you have cooperation of the lender or servicer in the HAMP program?

Ms. CALDWELL. It's very important. HAMP is a voluntary program, but I think it's important once a servicer signs up for HAMP, they are under contract with U.S. Treasury, and they must perform. When the program was launched a year ago, folks said, you'll never get servicers to sign up to modify mortgages. Within the first year we went from zero servicers to 100 servicers, covering 90 percent of U.S. mortgages. And so while it is a voluntary program, once someone is in, they are under contract, and they must comply with the regulations.

Mr. CUMMINGS. And that leads me to the question, in my district, you heard what I said a little earlier. I mean, we work very hard to put lenders together with borrowers, and the No. 1 complaint is that the borrower can't get ahold of anybody in the lender's office. I don't care who it is. We dealt with 25, we had them all in one place this weekend, past weekend, weekend before last.

And so I'm trying to figure out where the problem is here. There's a disconnect. Are you following me? And I'm sure this is happening all over the country. And that's the No. 1 complaint. And I can get 1,000 people out on a Saturday morning in the snow, I'm serious, but they can't get a lender—and the reason why they come to me—and they shouldn't have to have a Congressman to facilitate them. You know, so I'm just trying to figure out. I mean, you just said that you all were trying to make sure that you try to address all the issues because I know you want to be as effective and efficient as you can be, and I'm just wondering if there is anything that we're missing here.

Ms. CALDWELL. Well, let me first say that homeowner events like the one you held last weekend are very important. I was actually supposed to speak at the one when it was originally scheduled for the first part of February when we had the big snow, and so those are very important.

I happened to be at a similar event that our office was hosting in Houston, Texas, and that opportunity for face-to-face connection with the servicer is important. But I think it is important to remember a year ago servicers were just in the business of collecting checks, making phone calls and foreclosing. And as part of this crisis, they have had to fundamentally reshape their operations to handle homeowners in crisis, to follow the rules of a government program, to shift modifications from those that used to increase a homeowner's payment to those that are long-term and sustainable. And so as they have ramped up, there have been some implementation challenges. Some signed up before they were ready; some are doing better than others. And part of our commitment to transparency is publishing a monthly servicer performance report so that we can judge who is getting the job done and who is not.

Mr. KUCINICH. Thank you.

The gentleman's time is expired.

The Chair recognizes Ms. Kaptur.

Ms. KAPTUR. Thank you, Mr. Chairman, for holding these hearings.

Welcome, Ms. Caldwell.

Could you please for the record state at which institution you first began as a mortgage loan officer?

Ms. CALDWELL. I have never been a mortgage loan officer.

Ms. KAPTUR. Thank you.

Have you ever in your prior positions handled the assets and liabilities of a financial institution and how they actually account for the value of real estate?

Ms. CALDWELL. Yes, ma'am I, have.

Ms. KAPTUR. OK. And for which institution was that?

Ms. CALDWELL. With Bank of America.

Ms. KAPTUR. Bank of America.

Have you ever been a part of the resolution of an institution or any instrumentality of Bank of America as they tried to work out on the books of that institution troubled real estate loans?

Ms. CALDWELL. Yes.

Ms. KAPTUR. And have you marked, been a part of an effort to mark, the value of those assets to market for those institutions on their own books?

Ms. CALDWELL. Certain asset classes are required to mark to market, and some aren't, so it really depends on the accounting rules with the various assets that I've been a part of.

Ms. KAPTUR. I am trying to understand. Now, you're over at the Treasury Building, right?

Ms. CALDWELL. Correct.

Ms. KAPTUR. I have found this whole approach to dealing with the housing market foreign to anything I have ever known. And in a way I think you have a job that's doomed to failure. And I don't understand why the last administration and this administration are using these means to deal with the real estate implosion in this country.

So some of my questions—and I asked Secretary Geithner yesterday to come and see the people over in the administration who are involved in these programs, because I can't figure out if Treasury has been selected to try to dig out of this avalanche of troubled loans because the system can't find the loans on the books of the institutions that originated them and then sold them upstream, or if they're doing it for some other reason that I don't really understand.

But what's been happening in communities like my own, foreclosures are going up and not down. Home values are going down, not up. Credit is frozen across this country because the banking system doesn't have confidence that the regulators or those in charge of regulating the financial institutions of this country have any consistency in what they are doing.

And so this recent decision by TARP, TARP, the group that decided that Merrill Lynch would be merged but Lehman would go down, now the same instrumentality has decided that five States are going to get TARP money to deal with home foreclosures, but 45 other States aren't. And I can tell you I represent a district where the unemployment rates in the four counties I represent are higher than the unemployment rates of the States of Nevada and California and Florida and the other States that were selected. So it's really I'm thinking, hmmmm. So Treasury now picked five, but it didn't pick troubled areas of the other four.

It makes no sense to me. And I'm wondering why the FDIC and the SEC aren't being used to deal with home value in a normal manner so that the books are resolved at the institutions that have held these loans, but rather all this is being thrust at you, at Treasury, which is not a housing agency. It never has been. It's a bonding agency. It sells bonds, it collects taxes. That's what it does. The real housing knowledge is inside of HUD, it's inside of FDIC, because those lines are on the books of the institutions that made the loans, and it's over at the SEC.

So we're not resolving the—in fact, what we're doing, what's happening is the approach is procyclical. What's being done to date is driving us into further recession, less lending and more delinquencies. And I can tell you—I mean, I'm not the only one up here—in the HAMP program it's not working. As hard as you try, they've given you an impossible job. And to resolve what's wrong with the housing market, I asked Secretary Geithner for a meeting, and I guess he's agreed to do it. He's not a houser, hasn't been involved in real estate.

This is really complicated. We need to use the proper regulatory instruments, and we're not using them. And it's beyond me why, unless you can't find the loans, unless they're missing somewhere, and I don't believe that. I think that we can resolve them on the books.

So I guess rather than giving you all the troubled real estate loans in the country, what I think should be happening is every single institution that made those loans, we should be resolving and taking those losses, writing down the principal on those assets and liabilities on the books of those banks. That's what bank examiners do. That's what the FDIC does. So my fundamental question is why aren't we doing that?

Mr. KUCINICH. The witness will have time to give a brief response.

Ms. CALDWELL. Let me just say for the HAMP program, which is what my team does every single day, when you look at the mortgage structure that we have today, over 90 percent of the mortgages in the United States are serviced by HAMP-eligible servicers. And that happened from within its first year of operations. We have 1 million homeowners that are saving 40 percent a month on their mortgage payment. And this is only one piece of the administration's overall housing solution when you think about interest rates, you think about refinance, you think about the purchase of mortgage-backed securities, and you think about HUD neighborhood stabilization funds. There are a number of agencies working together to address what is the largest housing crisis of our time.

Mr. KUCINICH. We're going to go to Mr. Tierney of Massachusetts, then we're going to have one more round, Ms. Caldwell, because myself, Mr. Jordan and perhaps other Members have some additional questions.

What about Ohio? Tell me what are you going to do, what are you going to do for Cleveland? You've got to do more. What are you going to do?

Ms. CALDWELL. Well, I think it's important to keep in mind that right now there are over 22,000 homeowners in trial modifications in the State of Ohio, and our job No. 1 is to get those homeowners into permanent modifications, and so we are focused on that every day.

Mr. KUCINICH. Don't you have about 19.4 percent of people in Ohio that are already underwater?

Ms. CALDWELL. I don't know the underwater statistics for Ohio, but we continue to look at everything we can do in Ohio and across the United States to keep homes—to keep those people in their homes.

Mr. KUCINICH. OK. That's not good enough. You're going to have to do more. We'll be in conversation about these things, but I'm not satisfied. Listen to what Mr. Rokakis has to say on the next panel, because he has some of the granular details about what's going on in Cleveland, Cuyahoga County.

I'm sure you're doing your best, but this is a wake-up call, and consider it a friendly wake-up call. I'm concerned that you haven't done enough to pressure the loan servicers and investors, and all the effort put into this program will not make a meaningful difference for the large number of homeowners in America who need help. That is the underwater borrowers, the borrowers who do not get modifications because of conflict of interest by the lenders owning both the first and second mortgages. Four biggest banks control two-thirds of all loan servicing. What's Treasury doing to address this problem?

Ms. CALDWELL. We're doing a number of things. I think that—and transparency is key here. Beginning in November with our—actually our data published in December. We published by servicer, by servicer performance reports, and that is a big motivating tool in getting those modifications made and converted.

In addition we've hired Making Home Affordable Compliance. It is a separate unit of Freddie Mac that goes in and inspects all the major servicers to make sure that they are appropriately soliciting homeowners that are eligible for HAMP modifications, and that they are doing it in the appropriate way.

And third, we run a call center in partnership with HOPE NOW and NeighborWorks to make sure that we are providing homeowners across America an opportunity to get help on their loan and get referred to a counselor where needed.

Mr. KUCINICH. I've looked at your testimony, all of it, and it touts the accomplishments of the HAMP program, but it's hard not to conclude that the administration has created a system that's all carrot and no stick. All along we've heard reports of the poor treatment of borrowers by loan servicers. Counselors in foreclosure prevention programs across the country relayed their stories through the media. And we heard that one of the most common reasons loan servicers deny borrowers modifications is the alleged reason that the borrowers' hardship isn't permanent.

What can you tell borrowers who are getting this kind of treatment from loan servicers?

Ms. CALDWELL. You know, our office and the call centers speak with borrowers every day on the phone. We have been out to 40 cities across the United States, or made a commitment to go to 40 cities—we've been to 22—to meet with homeowners in person. We regularly go out into the district offices because we want to hear about the experience that people are having. This program was designed with the borrower at the forefront, and every day this office takes seriously the experience of homeowners across America.

Mr. KUCINICH. How do people get ahold of you and—and indicate their experience? Do you have a Web site?

Ms. CALDWELL. We have a Web site, and we——

Mr. KUCINICH. What is that address?

Ms. CALDWELL. It is MakingHomeAffordable.gov, and we have a phone number which I'll have to provide to you, but I know the last four digits are H-E-L-P.

Mr. KUCINICH. We don't want that to be wrong. Well, we will make sure that we work with you in circulating that information.

Now, one big complaint among borrower advocates is that loan servicers can proceed with a foreclosure while the borrower is still being evaluated for and is in a trial period for a loan modification. What are you doing to change that?

Ms. CALDWELL. Well, again, as I said earlier, I think it is important to understand that HAMP guidelines have always said that a home may not be sold, go to foreclosure sale while a borrower is in HAMP. Foreclosure laws do differ across States, and so there are some States where there may be borrowers or homeowners in a foreclosure process, albeit not a sale, while undergoing HAMP. And so one of the things that we are very committed to doing is making sure that homeowners understand that process, that servicers understand their responsibility in the process, and that there are no situations where a homeowner goes through an avoidable foreclosure.

Mr. KUCINICH. My time—thank you. My time has expired, but I am going to ask you to be open to submissions by members of this subcommittee of followup questions that we may have. I have a followup question about underperforming services, but I will put it in writing.

We're going to move along with this and get to the second panel after other Members have had a chance to ask a second round of questions.

The Chair recognizes Mr. Jordan. You may proceed for 5 minutes. Thank you.

Mr. JORDAN. Thank you, Mr. Chairman.

Ms. Caldwell, let me get back to the transparency concern of—for the $75 billion—potentially $75 billion program. The Special Inspector General for TARP has made a recommendation that Treasury should require the servicer to compare the income—I mean, it is straight out of the book—compare the income reported on the mortgage modification application with the income reported on the original loan. They list in their latest report that this recommendation has not been implemented. Why hasn't it? I mean, that seems to me, looking at potential fraud, just a good government type of thing that could happen. Why haven't you done that? Why haven't you required that?

Ms. CALDWELL. The HAMP program is a modification program, not an origination program, and so this program is designed to prevent avoidable foreclosure. So the focus is on what is the homeowner's current hardship and the documentation of the income that they have today——

Mr. JORDAN. But don't——

Ms. CALDWELL [continuing]. And keeping affordable payments.

Mr. JORDAN. Ms. Caldwell, don't you think in light of all that took place a few years ago when we talked about some of these loans that were made, and there was maybe no documentation, not—there was potential fraud, don't you think it makes sense—you as a professional who serves in this industry, don't you think it makes sense to look at that? And the guy who is supposed to inspect, the inspector general of the program, is supposed to watch out for the billions of taxpayer dollars potentially at risk. I mean, why wouldn't you do it? The inspector general is telling you to do it. It makes sense. It was part of what started us in this mess to begin with a few years back. It seems to me that would be something, oh, yeah, no-brainer, let's do it.

Ms. CALDWELL. Our focus right now in the HAMP program is getting the documentation in from the borrowers currently in trial modifications on their income and the hardships that they are facing today so that they——

Mr. JORDAN. Do you——

Ms. CALDWELL [continuing]. Converted to permanent modifications, not on whatever documentation——

Mr. JORDAN. Do you intend to at any point over the next 2 years, as you are trying to get to this goal of 3 million, 4 million, and you have only done 116,000, do you intend at any point over the next 2 years to do what the inspector general has asked you to do?

Ms. CALDWELL. We're always looking at ways to iterate and improve the program to provide a better experience for the borrower and for the taxpayer. Right now we're focused on the conversion from trial modifications to permanent modifications, but will continue to look at the program.

Mr. JORDAN. Is that a no? You're not going to do what the inspector general suggests you do?

Ms. CALDWELL. It is a—I can't say today 1 year into the program what we're going to do between now and 2012, but I can commit that we will continue to review it.

Mr. JORDAN. What's the qualification rate? One million people have—have applied and are in trial modification. What—116—do you know the percentage of folks—- do you anticipate those who are still in trial modification, what percentage of those will make it into permanent modification of their loan? Are the vast majority going to continue to be rejected? Is that your—that's the history. You anticipate that being the case as we move forward?

Ms. CALDWELL. In terms of a conversion ratio, it is too early to predict what the long-term conversion ratio can be. The one prediction that I would be prepared to say is that when documentation is required up front, the conversion ratio will be higher, because the documentation collection has been a challenge.

I do think it is important to just again emphasize that the program is designed to provide 3 to 4 million in opportunity for modification, not a commitment to modify 3 or 4 million mortgages.

Mr. JORDAN. OK. Well, let me ask, it looks like a high number are going to be in trial and not make it to the permanent. With that fact in mind, if homeowners who get trial modifications but don't qualify for permanent ones end up defaulting on their mortgages, wouldn't it have been better for them to pursue some other type of approach, some other type of remedy for the difficult economic situation they are in?

Ms. CALDWELL. I think it's important to remember that HAMP is a pay-for-success program, so incentives do not get paid to the servicer until the loan becomes permanent. And then there are incentive payments as the loan stays current over a 5-year period. So to the extent that a loan does redefault, taxpayer money is not paid to support that loan.

In terms of keeping homeowners in their home and avoiding foreclosure for a longer period of time, I think that is a good outcome.

Mr. JORDAN. Let me ask one final question, if I could, Mr. Chairman.

This is from a week or two ago, a Wall Street Journal piece on a program, the date February 9th. Former head of Freddie Mac David Moffett said—he and others warned administration officials that the loan modification goals were unrealistic, that borrowers whose homes weren't worth what they owed were unlikely to take part, and that many participants would be likely to redefault within months. They didn't want our views, Mr. Moffett says.

It looks like he was somewhat, you know, visionary or prophetic on his statement there.

Is that statement accurate in your mind, Ms. Caldwell? And were, in fact, you—those of you at Treasury, I don't know if you were there quite yet, but do you know if folks at Treasury were warned about, you know, got this warning that Mr. Moffett states in the article?

Ms. CALDWELL. You're—you're correct, I joined Treasury in November 2009, so I can't speak to what people were thinking at Treasury, but what I can say is that in the program today we have over two-thirds of the homeowners current on their mortgage, and that is—we've never had anything at this scale, so we don't have historical data to fall back on, but what we do know in loss mitigation prior to this crisis, close to 45 to 50 percent redefaulted. So we are outperforming in terms of prior history.

Mr. JORDAN. Mr. Chairman, if I could, you know, if you have another hearing, I don't know if you're going to, but if you do, we may want to get Mr. Moffett.

Mr. KUCINICH. I have the feeling we're about to become good friends here.

Mr. JORDAN. Mr. Moffett may be someone we want in front of the committee. Thank you.

Mr. KUCINICH. Thank you very much.

The Chair recognizes Mr. Cummings.

Mr. CUMMINGS. I thought Mr. Tierney was——

Mr. KUCINICH. Mr. Tierney waived that in the last round, but I would be happy to begin with Mr. Tierney.

Mr. CUMMINGS. No, I'll yield to Mr. Tierney.

Mr. KUCINICH. OK. Mr. Tierney.

Mr. TIERNEY. Thank you. Thank you.

I apologize for missing your remarks and the early part of the questioning, so some might be repetitive, I'm sure it probably is, but as long as we're here, can you tell me why the administration hasn't considered any sort of principal reduction program or whether it might do that in the future, and what it would look like if it did?

Ms. CALDWELL. Right now HAMP currently allows for principal write-down at any point in time in the mortgage modification. I will also say that——

Mr. TIERNEY. It allows for it, but it doesn't naturally move in that direction.

Ms. CALDWELL. It doesn't require it. And the administration has been studying ways to look at principal write-down as part of the mortgage modification, but one of the things that we have learned is that the bulk of the people who are underwater in their mortgage are currently paying, and so we're always examining that in the lens of cost to the taxpayer, moral hazard and keeping the program running. And so with that in mind, this program was designed for affordability to make sure that people could stay in their homes with a payment they could afford.

Mr. TIERNEY. Now, when you're looking at this new plan to divert about $1½ billion in TARP funds to just five States, will there be a change in attitude with respect to that since there is TARP money in a lot of those banks that may be involved, actually took taxpayer money, will be requiring a little bit more from them in terms of principal forgiveness?

Ms. CALDWELL. Right now we're looking at this program announced last week. We're trying to get it up and launched and learn from what the local housing finance agencies are doing. And like with everything else we have done with this kind of crisis, that is something we've never seen before in our history. We want to take the lessons that we learn from this and all of our other housing initiatives and try to make our program better.

Mr. TIERNEY. So that's a no, right?

Ms. CALDWELL. It's a—it's a too early to tell. We're all learning through this together as we go along.

Mr. TIERNEY. Well, you have not done it in the past. There was nothing to learn from the past about doing it because you haven't done it, so I am asking you whether or not you are going to take some consideration and maybe emphasis on trying something new, particularly where some of the banks involved have already taken the taxpayers' money, and now say, in some instances where appropriate we are going to make a conscious effort to aggressively go and get principal reduction, see if we can get these people to stay in their homes and have these banks do something responsible? Is that not something you're going to go aggressively after?

Ms. CALDWELL. Our office has been aggressively considering proposals from—on all areas that we can do to address the foreclosure crisis in this country and prevent affordable foreclosures. But as I said earlier, we have to do that with the lens of affordability, stability and transparency, and we have to think about it with the taxpayer dollars.

Mr. TIERNEY. All right. It seems to the me you have an aversion to that, but we'll see how it develops.

Yield back to Mr. Cummings.

Mr. KUCINICH. Mr. Cummings.

Mr. CUMMINGS. Just one quick question. He just yielded back to me, Mr. Chairman.

One of the disturbing things that you said that upsets me tremendously, and I just checked with my office to make sure, there are people—I don't care whether it is in law or not, there are people who are being foreclosed upon, whether it is in the law or not. And we can give you name, dates, and serial numbers. And some kind of way we have to get to that. I mean, apparently there is no enforcement mechanism, that's No. 1.

No. 2—in the HAMP program, by the way. No. 2, I was—you seem to make a big deal out of this thing of listing the servicers and how many—what they did. I'm trying to figure out how do you see that as an incentive? The—is there any data that shows that they get—I mean, they get overjoyed or something when they see their name listed, and there are a lot of—you know, they have a lot of—they have done a lot of these modifications, because it doesn't seem to be working.

Ms. CALDWELL. You know, public pressure and transparency is one tool, but I think it is also important to remember that HAMP is a pay-for-success program. So modifications don't convert, servicers don't get paid. And so you get paid for success.

In addition, if there are modifications that have not been done appropriately, then under the contract Treasury can go back and take back that incentive.

Mr. CUMMINGS. So if we have situations where people are doing that, the thing about with the foreclosures while they are working out the HAMP program, we should get that information to you?

Ms. CALDWELL. Absolutely. If there are cases where you have servicers in your market that have violated the guidelines under HAMP, we want to know about that.

Mr. CUMMINGS. And what will you do?

Ms. CALDWELL. We then turn that to our compliance agent. We have a compliance committee. They review it, they determine the facts, and then there is a recommendation made about remedies.

Mr. CUMMINGS. Thank you, Mr. Chairman.

I yield back.

Mr. KUCINICH. I thank the gentleman.

The Chair recognizes the ranking member of the full committee Mr. Issa.

Mr. ISSA. Thank you, Mr. Chairman.

Ranking Member Jordan had asked you about transparency pursuant to the special IG for the TARP, and I don't think he got a satisfactory answer.

Do you believe that the American people deserve 100 percent transparency on your actions and your progress?

Ms. CALDWELL. I do. As we said, this program has been designed to look at affordability, stability and transparency.

Mr. ISSA. OK. Well, going to the transparency, since you've only done 116,000 permanent loan modifications, or 3 percent of your goal, and we are well into your time horizon, how can we see in a transparent way your progress so that we can determine whether or not you have any hope of, in a qualified way, in an effective way, achieving anywhere close to your original goal? Or if you're not to take back a substantial portion of the 75 billion—because ultimately if you're not going to get close to 3 to 4 million in permanent loan modifications, shouldn't we encourage the President to reallocate that money?

Mr. CALDWELL. Let me answer, I think, your first question was about the 3 to 4 million, and it's important to again stress as I did for Member Jordan that it was not designed to provide a commitment of modifications to 3 to 4 million people, but rather 3 to 4 million homeowners an opportunity for a permanent modification. So if you come in the first year——

Mr. ISSA. Well, let's go back through. How much of the 75 billion have you used with 116,000 permanent loan modifications?

Ms. CALDWELL. I don't have the exact answer to that, but it is important to remember that——

Mr. ISSA. OK. If we're going—ma'am, if we're going to have transparency, then where can I go and find out how much you spent in somewhere close to real time? This committee wants transparency; we demand it. We're demanding it of the banks. We are demanding it of all kinds of institutions we didn't before. If you don't have—if you come before the Congress in a scheduled hearing, and you don't have the answer to a question of how much you've spent, then I would like for the record a place where my staff can go on a daily basis from here forward, click on a public site, or, if there is a reason for it not to be public, then a less than public site, and get that answer. Can you make that commitment to me today that you will bring us back that answer?

Ms. CALDWELL. I can bring you back an answer on the amount spent, yes. But I will again say because the—because the program only pays for permanent modifications, it has not spent much.

Mr. ISSA. OK. Do you, by the way, receive a tally on a daily basis or as requested immediately of how much has been spent? Is that a question you ask and get answered periodically?

Ms. CALDWELL. It's a question asked periodically, but not daily.

Mr. ISSA. When you ask it, how long before you get an answer usually?

Ms. CALDWELL. It is hard to say.

Mr. ISSA. Well, just give me a—one example, that would be fine. A day, a week, a month, an hour?

Ms. CALDWELL. Within the time requested, but it is published.

Mr. ISSA. You're telling me that this is published, and my staff could go during this meeting and get that information?

Ms. CALDWELL. From the TARP funds, yes. There is financial statements for the TARP.

Mr. ISSA. The special IG basically said, no, there isn't. That's one of the problems is the accountability and transparency in his report, which is rather lengthy, it comes up with a not so good. You know, this is not a B-plus exercise, this is a D-minus exercise in many of the things that he said.

Well, let me move on to just maybe one or two other questions.

You're now well enough into it with 116,000 modifications. Let me go to a question that was asked before maybe to set a stage. How many banks did we give money to in the TARP? Not in your program, in the TARP overall. Did we give money to anybody, or did we loan money to them?

Ms. CALDWELL. In the TARP?

Mr. ISSA. Yes. We loaned money to the banks, right? And they paid back with interest, and most have exited, the largest banks have exited.

Ms. CALDWELL. Most, yes.

Mr. ISSA. When you're going to the banks and asking them to do loan modifications to basically forgive, in some cases, substantial portions of principal, you haven't given them any money; the only money is the money that you, in fact, are standing there out of your 75 billion? Isn't that correct that their inducement is whatever you bring in with your $75 billion in funds; is that right.

Ms. CALDWELL. And enforcement under a contract that they have signed.

Mr. ISSA. If they choose to participate with you.

Ms. CALDWELL. Of which over 100 servicers have covering 90 percent of the mortgages. And the TARP banks servicers have all signed up.

Mr. ISSA. But those are those who chose. I just wanted to make clear that the gentleman on the other side was implying we gave money and therefore had an obligation. But the only people who have an obligation are those who signed up for this program and you are giving them money from the 75 billion; is that right?

Ms. CALDWELL. For their performance under the contract, correct.

Mr. ISSA. Very good.

Thank you, Mr. Chairman.

Mr. KUCINICH. The gentleman's time has expired.

The gentleman recognizes Ms. Kaptur.

Ms. KAPTUR. Thank you.

Mr. Chairman, I want—I would appreciate it if Ms. Caldwell would answer do you possess a degree in finance, or banking, or accounting?

Ms. CALDWELL. Finance.

Ms. KAPTUR. Accounting science?

Ms. CALDWELL. No.

Ms. KAPTUR. Your degree is in science.

Ms. CALDWELL. The degree is in finance.

Ms. KAPTUR. Finance. Thank you very much.

According to the information that I have, in Ohio in the past year, 2,529 homeowners got what are called permanent modifications. That doesn't mean that anything actually happened, it just means they went through some process that got them to some point. Of the programs that you have responsibility for the HAMP program, what percent of those individuals that have come to the Government of the United States through your programs have actually been resolved? All those servicers you said that signed up for your program, what percent? Is it 5 percent, 3 percent? What's the number for the country?

Ms. CALDWELL. I'm sorry, can you ask the percentage of what—I didn't understand your question.

Ms. KAPTUR. Of the home loans that have actually been refinanced and resolved where the people were able to stay in their homes either through principal reduction, reworking of the mortgage loan, whatever, what percent in your program?

Ms. CALDWELL. In our program we at this point in time, because we have homeowners in a temporary review, at the end of December we put homeowners in a trial modification to do one more review so that we could make sure that those—that they understand what documents needed to be in and that they had a chance to become current. So therefore, we have not had very many people declined in order to—so that's not a number we can give you. Everyone that's still in a trial, unless their property is ineligible for HAMP or they have withdrawn from HAMP, they have not been able to be declined.

Ms. KAPTUR. Well, according to the numbers I have, Ohio had about 90,000 homeowners who were foreclosed on in the last year, and of that number we have 2,529, a very small percentage, who got permanent modification to their mortgage. But when you really probe beneath that surface, that permanent modification doesn't necessarily mean that they remained in their home, because something can change, because it's in the program, and something else can happen to it. So my point is it's a very, very small number of people who have gotten any home security out of this program after 1 year in Ohio. Maybe it is different in other States, I don't really know, but certainly in Ohio we don't see any kind of real bounce from this program.

If it is all right, I would like to state some of the difficulties that we are having in Ohio. The servicers really aren't serious. Participation is voluntary; they can fiddle around with a loan for months. There is no strong arm of FDIC in there or the SEC working with the institutions, which goes back to my original question. It is very curious to me that these mortgage loans are being worked out at Treasury. That's never been a housing—Treasury certainly doesn't do servicing. I mean, it's just an odd place in the Government of the United States to conduct these activities.

But let me just state for the record a couple of real problems here. The 31 percent threshold that is used in the program that you manage is unrealistic in regions that have traditional affordable housing stock like Ohio. We didn't have the big bump-up like Arizona. I'm sort of offended, California, you know, Arizona, all of places that have hyperinflation, they get attention. And yet, you know, the heartland gets run over with a Mack truck because the people in our area were paying less than 31 percent of their income for their mortgage. And the modification process actually increases their payment and exceeds the 31 percent threshold, so, again, it is just another—it becomes a procyclical means of denying people the ability to work out their mortgage.

As you know, there is huge lack of coordination between the legal, the loss mitigation, the collection, and the homeownership offices of lenders or servicers, total confusion, loss of documents. And I will tell you one of the worst companies is Bank of America. We get so many complaints about Bank of America, your former firm, and documents are constantly being lost. And I just wonder what you think——

Mr. ISSA. I would ask unanimous consent that the gentlelady have an additional minute.

Mr. KUCINICH. The gentlelady's time is expired. There's a unanimous consent to give her another minute. You can ask—if you could ask a question, we'll ask Ms. Caldwell to respond.

Ms. KAPTUR. I thank the chairman, and I thank the ranking member.

I want to know what you can do to get the servicers to really do their job.

Ms. CALDWELL. Now, I think it's—again, as I stated earlier, this program went from startup to 1 million homeowners in trial in a year and zero to 100 servicers in the first year. And we have acknowledged there have been implementation challenges as this industry fundamentally restructured. And so we continue every day to learn from what's happened in the prior month to make improvements.

Now when you talk about permanent modifications, we started the month of December with 31,000 modifications. Back when I testified for the chairman and the ranking member a few months ago, we had 31,000 modifications. Through daily efforts with the servicers, setting goals, improving processes, we now have 116,000 modifications, that's in 2 months, with another 76,000 out the door awaiting signatures.

Ms. KAPTUR. Can you define what "modification" really means?

Ms. CALDWELL. The permanent modifications where a homeowner has been through trial and converted to permanent modification. So that's been a doubling of pace in the last 60 days, and that's a result of just growing into the system and learning from the startup process.

Ms. KAPTUR. If there is a third round, Mr. Chairman, I will continue my questioning.

Mr. KUCINICH. The gentlelady's time has expired. This is the end of the second round of questions.

We've got three panels, and we're going to need to move on. To my colleague Congresswoman Kaptur, Ms. Caldwell has consented to answering any questions that can be put in writing.

Ms. KAPTUR. OK.

Mr. KUCINICH. And we'll make those, if we get a timely response, part of this.

As has been pointed out by my colleague, SIGTARP has said that the American people deserve better. Ms. Caldwell, I hope that you will agree. Thank you very much for being here,

Mr. KUCINICH. We're going to ask our second panel to come up. I want to thank all my colleagues, Mr. Tierney, Mr. Cummings, Ms. Kaptur, Mr. Jordan, Mr. Turner, Mr. Issa, for being here.

The second panel, will you step forward, and we will move to swear in the witnesses. While you're coming forward, I will do some introductions.

Second panel consists of Mr. Bill Sheil. Mr. Sheil is a journalist and investigative reporter for WJW FOX channel 8 in Cleveland, OH, where he's won numerous regional Emmys, as well as the Edward R. Murrow award for his reporting.

Mr. Jim Rokakis has served as the Cuyahoga County treasurer since 1997. Under his leadership the office took an early role in combating the foreclosure crisis, particularly with regard to abandoned properties and the creation of a county land bank. He helped create and oversee the county's Don't Borrow Trouble mortgage foreclosure prevention program.

Finally, Ms. Patricia Stringfield is a resident of Washington, DC, and has lived here all her life. She has been a homeowner since 1988 and has sought a modification of her home mortgage under the HAMP program.

So I'm going to ask the witnesses to stand.

It is the policy of the our committee to swear in all witnesses, and I would ask if you would rise and raise your right hands.

[Witnesses sworn.]

Mr. KUCINICH. Let the record reflect that each of the witnesses have answered in the affirmative.

Now I am going to ask that each of witnesses give a brief summary of their testimony. Please keep in mind that your testimony should be no more than 5 minutes in duration. Your complete written statements will be included in the hearing record.

Mr. Sheil's our first witness, and his testimony is in the form of an excerpt from an investigative report he produced for FOX Cleveland's I-team. If we can play the video, and if you have any comment over the video, that would be fine, Mr. Sheil.

Can we—staff, do you want to—you're working on it?

[Video played.]

STATEMENTS OF BILL SHEIL, INVESTIGATIVE REPORTER, WJW–TV8, CLEVELAND, OH; JIM ROKAKIS, TREASURER, CUYAHOGA COUNTY, OH; AND PATRICIA STRINGFIELD, HOMEOWNER, WASHINGTON, DC

STATEMENT OF BILL SHEIL

Mr. SHEIL. So what we did here is these are some pictures in New Orleans, and these are some pictures in Cleveland interspersed, and we're asking you, can you tell the difference? That's part of Hurricane Katrina. Some of this video is Cleveland. They are interspersing with New Orleans. The point of the story was to be that you can't really tell which is which. That is Cleveland right there, those four homes in a row that are vacant.

Tony Brancatelli is a councilman.

That's Slavic Village and what it looked like about 30 years ago, a middle-class neighborhood just south of the city. This is a sense of what Slavic Village looks like today. These are pipes inside a house that's more than a century old that had gas lamps in it, plumbing in the back.

Obviously, another shot of Katrina as we go back to New Orleans.

The Councilman Brancatelli showing us that it was the perfect storm in Cleveland that led to this housing crisis in many ways. These homes have outlasted their usefulness. The plumbing is in the back because they predate indoor plumbing, and the plumbing was attached later. They are often flipped and sold and paint slapped on them, and then they are resold. And we have the problem again and again and again, which is what I'm saying, hopefully better than you're hearing it from me now, right there. And the question is are there ways that we can, you know, improve the region, and are there ways that we can make things better?

This is a pair of teachers. They are talking about the problems in their neighborhood, and how they want things to get better, and how they want to be part of the solution, and how they want to purchase this old, abandoned home. And they had some problems making the purchase; some problems, quite frankly, dealing with the governmental agency that I think have been resolved now.

But this is on the west side of Cleveland; this is a totally separate area from Slavic Village. We are focusing only on one house here because it is next door to the new home that they invested in, and they are trying to make the city work just in their neighborhood, but it is very hard to do with that eyesore next to them; that they want to be part of the solution for bringing it down and putting a park, quite frankly, on that corner, which is not far from Lake Erie. It's a beautiful piece of property. And they are explaining that they are just frustrated by what's happened in the neighborhood that they've invested in, and that they want the neighborhood to get better, and they want the Government, however it should, to help them. That's their house on the right. That's the property that's on the corner. Behind them is a view of the lake.

Councilman Brancatelli in Slavic Village indicating that, you know, the local officials need help making this happen; talking about all the different for sale areas around Slavic Village.

We had a lot of copper stolen from all of these homes when copper prices were high. This is what some people think the solution is actually, which is to knock down these homes that no longer have value, give them to the neighboring homeowners, plant trees, do something other than having boarded-up drug houses in the areas.

This is—that is—if you look up top there, that's where kerosene came in, predating electricity. This is where all the copper was stolen when copper prices were high from these abandoned homes, and the people sold them for money.

The tragedy in these neighborhoods in part is a lot of older people still live in the area who can't leave. We're talking here, I think, about the infrastructure that still exists in these neighborhoods, banks, gas stations. The neighborhoods have not yet died. There still is the infrastructure that creates neighborhood there if something can be done about what you're seeing behind me here.

And I want to say these are not isolated neighborhoods. You could go to 12 neighborhoods in Cleveland and get this.

This is explaining a process where—how money flowed into a government account and how that was part of the problem. Again, I think that's been addressed. And I think that's the portion we're showing.

Mr. KUCINICH. I want to thank you, Mr. Sheil, for being here and for the investigative report. We're going to go to questions to you when we finish with the other witnesses, but thank you for that presentation.

The Chair recognizes Mr. Rokakis. You may proceed for 5 minutes.

STATEMENT OF JIM ROKAKIS

Mr. ROKAKIS. Thank you, Mr. Chairman.

I'm going to ask the gentleman from IT to have the slides ready, I hope they are up.

I'm the treasurer of Cuyahoga County. While the collapse of the real estate market has shifted the focus away from Cuyahoga County, OH, it's important to note, as you pointed out, Mr. Chairman, that no other community has suffered the cumulative impact worse that Cuyahoga County, OH

Cuyahoga County was first nationally from 2000 to 2006 when the real estate bubble burst at the end of 2006. When this dubious distinction, worst in the country, moved to other communities and places like California, Nevada, Arizona and Florida, this crisis did not go away in communities like Cleveland or in States like Ohio.

In 2006, the last year Cuyahoga County led the country in foreclosures, we had 13,600 foreclosures. We had over 13—14,000 in 2007, when we were no longer first; almost 14,000 in 2008; 14,000 in 2009; and we're expecting a similar number in 2010.

A quick review of the county foreclosure maps. I don't know if you have them there. We have a glitch with ITMs. Every time I attempt to do this, Mr. Chairman, I botch it. But a quick review of these maps would show you that the foreclosures, while they have decreased just a bit in Cleveland, the core city, in part because there is nothing left, they have really picked up in the inner-ring and outer-ring suburbs. If you move the progression through to 2009, you'll see those shifting dark shades result—are density in foreclosures. They have moved from the core city, 2007, 2008, 2009 the last year, and as you see, this cancer has spread out.

Even more troubling is evidence that tens of thousands of loans that could be foreclosed are backed up and are at least 90 days late as evidenced by this next progression of slides. You will see, and these slides clearly demonstrate, that delinquent loans are backed up in the foreclosure queue. Look at the 90-day slide to the right. Just keep progressing forward. What you will see, that there are tens of thousands of loans in Ohio that are now 90 days late. They backed up in this foreclosure dam, and when they burst, and they will burst, it will add to the misery and despair we feel in our communities.

This crisis has resulted in at least 35,000 vacant properties, 18,000—18,000 to 20,000 properties awaiting demolition in Cuyahoga County, and a population loss in Cuyahoga County that is second only to Orleans Parish in Louisiana, and we know why they are first. Cleveland, which had 473,000 residents in the 2000 census, it has been estimated may drop to as few as 325,000 residents in the 2010 census, a 30 percent loss of population in just 10 years.

Property values have plummeted throughout the county. Half of all sales in Cleveland last year, Mr. Chairman and members of the committee, were sheriff sales. The consequences on governmental budgets, especially public schools which rely heavily on property taxes, will be felt for the next generation. In one recent study, if you could put that up, it's a study of negative equity, Ohio shows up as negative ninth in the country, but Congressman Kaptur made a very good point. We never experienced the run-up of real estate prices that many of the other States ahead of us on that list experienced, so our losses are more significant as they took away real value, not one driven by real estate speculation.

We are talking here today about the disappointment with the HAMP program. Those reasons have been well reported. But HAMP has been especially ineffective in Ohio, as you see on that chart, members of the committee, as only three States have experienced a lower percentage of loan modifications than Ohio.

For all these reasons we were stunned to see the roll-out of the plan last week by the Obama administration to use $1.5 billion in TARP funds to assist California, Nevada, Florida, Arizona and Michigan. How can a State at the epicenter of this crisis for so long be ignored once again? How is that possible?

The only effective remedy, in our experience, that works in this fight is foreclosure counseling. And to Congressman Cummings' port—point, I am not talking about the 1–800 call-in numbers to call-in centers. I'm talking about the intense, face-to-face, personal counseling where trained foreclosure counselors work with homeowners in distress and stay with them as they do loan modifications.

A program we established in Cuyahoga County, our Don't Borrow Trouble campaign, is one of the most effective in the country. It takes people who call 2–1–1 and refers them to four trained counseling agencies where people sit down face to face again, not over a long-distance phone number. Homeowners are then assigned to foreclosure counselors who meet with them, gather financial information, assess the situation, and proceed to work on their loan modifications with the servicer.

Our success rate in 2008 was 56 percent of those who came in and sat down with our counselors has the loans modified. Now, some of these mortgages are beyond repair, but our success rate when a homeowner calls us, again, as I said, we think is the best in the country.

Which brings me for my major reason for being here today, which is to plead with you, Mr. Chairman and members of this committee, to restore funding to the National Foreclosure Mitigation Counseling Program [NFMC], which is an arm of NeighborWorks.

Reduction at the Federal level to this program resulted in direct funding cuts to counseling agencies in Cuyahoga County and Ohio, organizations like ESOP, a nationally regarded community group that is, I think, the most effective housing counseling agency in Ohio. Last year ESOP received $1.7 million in funding through NFMC. Because of reductions in funding, their allocation this year is only $568,000. They are laying off counselors, housing counselors, beginning Monday. Other organizations throughout the State are doing the same. Last year ESOP counseled 8,000 family statewide; this year as a result of the cuts, they expect to only be able to counsel 3,000 families.

The chart I'd like to show you there, the last chart, graphically demonstrates Federal policy is moving in the wrong direction. Delinquencies are moving up, but foreclosure counseling dollars are moving down. This is incomprehensible, nonsensical and wrong. Time is running out. If only two-tenths of 1 percent of the amount allocated each of those States, assume an even split, $300 million, if two-tenths of 1 percent of the moneys allocated to those five states last Friday were allocated to these programs, we could keep these housing counselors on and continue what I think is the good fight and the only effective program that has worked thus far.

Thank you, Congressman Kucinich and members of the committee, for listening to me today.

[The prepared statement of Mr. Rokakis follows:]

CUYAHOGA COUNTY TREASURER JIM ROKAKIS
2/25/2010 CONGRESSIONAL TESTIMONY
DOMESTIC POLICY SUBCOMMITTEE, OVERSIGHT & GOVERNMENT REFORM

THANK YOU, MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE FOR ALLOWING ME TO SPEAK HERE TODAY. MY NAME IS JIM ROKAKIS AND I AM TREASURER OF CUYAHOGA COUNTY. WHILE THE COLLAPSE OF THE REAL ESTATE MARKET HAS SHIFTED THE FOCUS AWAY FROM MY COUNTY AND STATE, IT IS IMPORTANT TO NOTE THAT NO COMMUNITY HAS SUFFERED THE CUMULATIVE IMPACT MORE THAN CUYAHOGA COUNTY. WE WERE FIRST NATIONALLY IN FORECLOSURES FROM 2000 TO 2006. WHEN THE BUBBLE BURST AT THE END OF 2006 AND THIS DUBIOUS DISTINCTION – WORST IN THE COUNTRY – MOVED TO OTHER COMMUNITIES, ESPECIALLY IN STATES LIKE CALIFORNIA, NEVADA, ARIZONA AND FLORIDA, THIS CRISIS DID NOT GO AWAY IN COMMUNITIES LIKE CLEVELAND. IN 2006, THE LAST YEAR CUYAHOGA COUNTY LEAD IN FORECLOSURES, WE HAD 13,600 FORECLOSURES. WELL, WE HAD 14,267 IN 2007, 13,858 IN 2008, 14,171 IN 2009 AND ARE EXPECTING A SIMILAR NUMBER IN 2010. A QUICK REVIEW OF COUNTY FORECLOSURE MAPS SHOWS THAT FORECLOSURES HAVE NOT DECREASED BUT HAVE REMAINED STEADY AND HAVE SHIFTED FROM THE CORE CITY – CLEVELAND – TO THE INNER-RING AND EVEN OUTER-RING SUBURBS.

EVEN MORE TROUBLING IS EVIDENCE THAT TENS OF THOUSANDS OF LOANS THAT COULD BE FORECLOSED ARE BACKED UP AND ARE AT LEAST 90 DAYS LATE AS EVIDENCED BY THIS QUICK PROGRESSION OF SLIDES THAT CLEARLY DEMONSTRATE THAT DELINQUENT LOANS ARE BACKED UP IN THE

FORECLOSURE QUEUE AND THIS DAM – WHEN IT BURSTS – WILL ADD TO OUR MISERY AND DESPAIR.

THIS CRISIS HAS RESULTED IN AT LEAST 35,000 VACANT PROPERTIES, 18-20,000 AWAITING DEMOLITION AND A POPULATION LOSS IN CUYAHOGA COUNTY THAT IS SECOND ONLY TO ORLEANS PARISH IN LOUISIANA, AND WE KNOW WHY THEY ARE FIRST. CLEVELAND, WHICH HAD 473,000 RESIDENTS IN THE 2000 CENSUS, MAY DROP TO AS FEW AS 325,000 RESIDENTS IN THE 2010 CENSUS – A 30% LOSS OF POPULATION IN JUST 10 YEARS. PROPERTY VALUES HAVE PLUMMETED THROUGHOUT THE COUNTY. HALF OF ALL SALES IN THE CITY OF CLEVELAND LAST YEAR WERE SHERIFF'S SALES. THE CONSEQUENCES ON GOVERNMENTAL BUDGETS, ESPECIALLY PUBLIC SCHOOLS WHICH RELY YEARLY ON PROPERTY TAXES, WILL BE FELT FOR AT LEAST THE NEXT 10 YEARS.

IN ONE RECENT STUDY, OHIO RANKS 9TH IN THE PERCENT OF NEGATIVE EQUITY BUT REMEMBER WE NEVER EXPERIENCED THE RUN-UP OF REAL ESTATE PRICES THAT MANY OF THE STATES AHEAD OF US EXPERIENCED, SO OUR LOSSES WERE MORE SIGNIFICANT AS THEY TOOK AWAY REAL VALUES, NOT ONE DRIVEN BY REAL ESTATE SPECULATION.

THE OBAMA ADMINISTRATION'S HAMP PROGRAM HAS BEEN A HUGE DISAPPOINTMENT FOR REASONS THAT HAVE BEEN WELL REPORTED, BUT HAMP HAS BEEN ESPECIALLY INEFFECTIVE IN OHIO AS EVIDENCED BY THIS SLIDE – ONLY 3 STATES HAVE EXPERIENCED A LOWER PERCENTAGE OF LOAN MODIFICATIONS THAN OHIO. FOR ALL THESE REASONS, WE WERE STUNNED TO SEE THE ROLL-OUT OF THE ADMINISTRATION'S PLAN TO USE

$1.5 BILLION IN TARP FUNDS TO ASSIST CALIFORNIA, NEVADA, FLORIDA, ARIZONA AND MICHIGAN. HOW CAN A STATE AT THE EPICENTER OF THIS CRISIS BE IGNORED AGAIN? HOW IS THAT POSSIBLE?

THE ONLY EFFECTIVE REMEDY – IN OUR EXPERIENCE – THAT WORKS IN THIS FIGHT IS FORECLOSURE COUNSELING. I AM NOT TALKING ABOUT 800 CALL-IN NUMBERS, RATHER INTENSE FACE-TO-FACE, PERSONAL COUNSELING WHERE TRAINED FORECLOSURE COUNSELORS WORK WITH HOMEOWNERS IN DISTRESS AND STAY WITH THEM AS THEY DO LOAN MODIFICATIONS. A PROGRAM WE ESTABLISHED IN CUYAHOGA COUNTY IN APRIL OF 2006 – OUR "DON'T BORROW TROUBLE" CAMPAIGN – REFERS PEOPLE WHO CALL OUR CALL FOR ACTION LINE – 2-1-1 – TO ONE OF FOUR TRAINED COUNSELING AGENCIES.

HOMEOWNERS ARE ASSIGNED TO FORECLOSURE COUNSELORS WHO MEET WITH THEM, GATHER THEIR FINANCIAL INFORMATION, ASSESS THEIR SITUATION AND PROCEED TO WORK ON THEIR LOAN MODIFICATIONS WITH THE SERVICER. OUR SUCCESS RATE HAS BEEN AS HIGH AS 56%. SOME OF THESE MORTGAGES ARE BEYOND REPAIR BUT OUR SUCCESS RATE WHEN A HOMEOWNER CALLS US, IS – WE BELIEVE – ONE OF THE BEST IN THE COUNTRY. WHICH BRINGS ME TO MY MAJOR REASON FOR BEING HERE, WHICH IS TO PLEAD WITH THIS CONGRESS TO RESTORE FUNDING TO THE NATIONAL FORECLOSURE MITIGATION COUNSELING PROGRAM, OR NFMC. REDUCTIONS AT THE FEDERAL LEVEL TO THIS PROGRAM HAVE RESULTED IN DIRECT FUNDING CUTS TO COUNSELING AGENCIES IN CUYAHOGA COUNTY AND OHIO TO ORGANIZATIONS LIKE ESOP – A NATIONALLY-

REGARDED COMMUNITY ORGANIZATION THAT IS THE MOST EFFECTIVE HOUSING COUNSELING AGENCY IN OHIO. LAST YEAR, ESOP RECEIVED $1.7 MILLION IN FUNDING THROUGH NFMC. BECAUSE OF REDUCTIONS IN FUNDING, THEIR ALLOCATION IS ONLY $568,000. THEY ARE LAYING OFF COUNSELORS BEGINNING NEXT WEEK. LAST YEAR, THEY COUNSELED 8,000 FAMILIES STATEWIDE – THIS YEAR THEY ARE COUNSELING – AS A RESULT OF THE CUTS – ONLY 3,000 FAMILIES. THIS CHART GRAPHICALLY DEMONSTRATES FEDERAL POLICY IS MOVING IN THE WRONG DIRECTION. DELINQUENCIES UP – FORECLOSURE COUNSELING DOLLARS DOWN. IT IS INCOMPREHENSIBLE. IT IS NON-SENSICAL. IT IS WRONG. TIME IS RUNNING OUT. IF ONLY ONE-HALF OF ONE PERCENT OF WHAT WAS ALLOCATED IN TARP DOLLARS TO EACH OF THE STATES IN THE PROGRAM ANNOUNCED BY THE PRESIDENT LAST WEEK WAS ALLOCATED TO OHIO, WE COULD RESTORE THE FUNDING AND CONTINUE THIS FIGHT.

THANK YOU, CONGRESSMAN KUCINICH FOR ALLOWING ME TO SPEAK HERE TODAY.

###

Mr. KUCINICH. Mr. Rokakis, your testimony is very important, and I have just had staff take a copy of it over to Ms. Caldwell, who, unlike most people who testify in front of our committees, actually stays to hear what other people have to say.

I always appreciate that about you, Ms. Caldwell. But I—make sure that Mr. Rokakis's testimony—if you look at the maps and see the progression, I think it would be helpful. And you understand why those of us in Cleveland, Cuyahoga County, and in the State are so concerned when we get a signal from the administration that perhaps it is not looking closely enough at what's happening in our communities.

I also want you to know, Mr. Rokakis, that this afternoon we'll have a copy of your testimony sent over to the Treasury Secretary as well. We believe this is a very important message.

Mr. KUCINICH. Another important message about to be delivered to us from someone who lives in the neighborhoods of Washington, DC.

Ms. Stringfield, would you proceed with your testimony and share with this subcommittee what your experience has been. I thank you.

STATEMENT OF PATRICIA STRINGFIELD

Ms. STRINGFIELD. Good afternoon. My name is Patricia Stringfield. I am a resident of the District of Columbia, and I have come here today to tell you a story of my situation. I am a single mother who has worked my entire life to make sure that my son and I are taken care of and that he had a stable home environment. In 1988, I purchased my home from my mother. I did so because I had grown up in the neighborhood, and I knew it would provide me with a peace of mind. I purchased the home for $66,000. Over the years I refinanced a few times to cover expenses, take advantage of lower interest rates, and to do some repairs and cover college expenses for my son.

When things seemed like they were under control, my mother developed a medical condition forcing her to no longer be able to work, and I had to take over paying her bills. My mother has now been diagnosed with dementia, and I am now her primary caretaker. She receives Social Security payments to cover her insurance and her medicine, but little is left to cover food and basic expenses. When I contacted my lender, they told me that they would happily refinance my loan again to help me cover the increased balance on my credit cards and to pay off my son's school expenses.

They suggested that I go to another lender to get a second mortgage, as my home had plenty of equity, and it could help me pay the bills. I followed their advice and took out a second mortgage. This finally solidified my situation for a few years until the price of gas and utilities rose sharply. I depend on my car to get to work. Making ends meet became so difficult that I had to dip into my savings accounts until it was depleted. And at this point I turned to taking out loans on my 401(k) until I no longer could be allowed to do so.

Despite the financial stress, I was able to keep making mortgage payments for several months; however, I finally missed my first payment in September 2008. And as I ran out of ways to get extra income, I attempted to work with my lender several times, but was not given any option for resolutions. I had to turn to my neighbors to help pay for food for me and my mother. I missed a few payments, received warnings of foreclosure from my lender.

When I finally was able to get in contact with National Community Reinvestment Coalition, NCRC, NCRC was able to arrange a workout only to find out that the lender on my first mortgage was unable to find an acceptable workout solution. This caused my lender on the second loan not to offer anything because the first was not modified.

As the days passed and the foreclosure sale date approached, I decided to move out of my home because my mother's doctors didn't think she could handle being thrown out on the street. I began to move out on February 22, 2009, into a rental apartment with my mother. We awaited until NCRC got a resolution. The lender canceled the foreclosure sale, and I was put into a 3-month HAMP trial period.

Because of the modification on the first loan, my second loan holder was able to reduce my monthly payments by $100. But this news—excuse me, with this news we returned to our home in April. The landlord, however, asked me for 6 months of rent, claiming I had broken the lease. NCRC then stepped in again and is engaged in negotiation with the landlord.

When I received the first trial modification, I made two payments on it, but then sent—but then was sent another agreement to begin in June 2009 with a different payment amount. I made my payments for 5 months only to be told that it was denied because of missing information. This was not the case, as we had submitted all documents to them.

NCRC tried several times to get them to reduce the amount I owed, but was not successful even though my house is worth less now than the amount currently owed. After they declined me again, my counselor at NCRC went back to the lender, asked them to review the file once more for the program.

After several weeks of being told that I was in foreclosure again, I began to panic. I thought that we had already fixed everything back in April 2009, but we were still in a back and forth. I do not understand how this works and became frustrated to the point of crying almost every night.

I have listened to everyone that has helped me, and through the hard work of so many people over at NCRC, I hope that this is the last modification that I received this week will be the final one and will be approved. I have had four HAMP trial modification loans.

I hope that you can take my situation to heart and understand that these issues face real people, and the decisions that you make affect us all. I don't understand how I can be told 1 month that we are OK and everything is on track to be modified, begin the trial period, and have it turned down because it seems to be technicalities. It seems to me that if I owe more than what my house is worth, they could just reduce what I owe to the value of my home.

Thank you again for your time. I hope you can provide some help to other homeowners like myself who are struggling to get by every day, but want to pay their bills and take pride in owning their homes. Thank you again.

[The prepared statement of Ms. Stringfield follows:]

Statement of Ms. Patricia Stringfield, homeowner, Washington, DC, before the Domestic Policy Subcommittee of the House Oversight and Government Reform Committee

February 25, 2010

Good afternoon, my name is Patricia Stringfield; I am a resident of the District of Columbia and have come here before you today to tell you about my situation. I am a single mother who has worked her entire life to make sure that my son is well taken care of and that he had a stable home environment. In 1988, I purchased my home from my mother. I did so because I had grown up in the neighborhood and knew that it would provide me with a piece of mind. I purchased the home for $66,000.

Over the years, I had refinanced a few times to cover some expenses, take advantage of lower interest rates, and to do some repairs, and cover college costs for my son. When things seemed like they were under control, my mother developed another medical condition, forcing her to no longer be able to work and I had to take over paying her bills. My mother had now been diagnosed with dementia and I am her primary caretaker. She receives Social Security income to cover her insurance and medicine but it left very little left over to cover for food and basic expenses.

When I contacted my lender, they told me that they would happily refinance my loan again to help me cover the increased balances on my credit cards and to pay off my son's loans. They suggested that I go to another lender to get a second mortgage as my home had plenty of equity in it that could help me pay for the bills. I followed their advice and took out a second mortgage.

This finally solidified my situation for a few years until the price of gas and oil rose sharply. I depend on my car to get to my job. Making ends meet became so difficult that I had to dip into my savings account until it was depleted. At this point I turned to taking out loans on my 401k until I was told that I was no longer allowed to do so.

Despite the financial stress, I was able to keep making mortgage payments for several months. However, I finally missed my first payment in September of 2008 as I ran out of ways to get extra income. I attempted to work with my lender several times but was not given any options for resolution. I had to turn to my neighbors to help me buy food for me and my mother.

I had missed a few payments and received warnings of foreclosure from my lender when I finally contacted the National Community Reinvestment Coalition (NCRC). NCRC was able to arrange a workout, only to later find out that the lender on my first mortgage was unable to find an acceptable workout solution. This caused my lender on the second loan to not offer anything because the first was not modified.

As the days passed and the foreclosure sale date approached, I decided to move out of my home because my mother's doctor didn't think she could handle us being thrown out on the street. I moved out on Feb 22, 2009 into a rental apartment with my mother. We waited until NCRC got us a resolution; the lender canceled the foreclosure sale and I was put into a 3-month HAMP trial period. Because of the modification on the first loan, my second loan holder was able to reduce my monthly payments by $100.

With this news, we returned to our home in April. The landlord, however, asked me for six months of rent, claiming I had broken the lease. NCRC then stepped in again and is engaged in negotiations with the landlord.

When I received the first trial period modification, I made two payments on it but was then sent another agreement to begin in June 2009 with a different payment amount. I made my payments for five months, only to be told that it was denied because of missing information. This was not the case as we had submitted all of the documents to them. NCRC tried several times to get them to reduce the amount I owed but was not successful even though my house is worth less now than the amount currently owed.

After they declined me again, my counselor at NCRC went back to the lender and asked them to review the file once more for the program. After several weeks of being told that I was in foreclosure again, I began to panic. I thought that we had already fixed everything back in April of 2009 but we were still in this back-and-forth. I do not understand how this works and have become frustrated to the point of crying almost every night. I have listened to everyone that has helped me and, through the hard work of so many people over at NCRC, I hope that this last modification trial period that I received last week, will be the final one and it will be approved. I have had four HAMP trial modification loans.

I hope that you can take my situation to heart and to understand that these issues face real people and that the decisions that you make affect us all. I don't understand how I can be told one month that we are OK and everything is on track to be modified, begin the trial period, and have it turned down because of what seems to be technicalities. It seems to me that if I owe more than what my house is worth, they could just reduce what I owe to the value of my home.

Thank you for your time today, I hope that you can provide some help to those homeowners like myself who are struggling to get by everyday but want to pay their bills and take pride in owning their homes. Thanks again for your time.

Good Afternoon.

Mr. KUCINICH. Ms. Stringfield, thank you very much for testifying in front of this subcommittee. And in a moment I'm going to ask some questions of you to try to bring out more about the plight that you and your family have experienced, which is really something that many Americans are experiencing.

It's my time for questions. I have 5 minutes, I want to start with Mr. Sheil. You showed pictures of a neighborhood in Cleveland, but you get around the city a lot because that's your job. Would you say that the effects of the foreclosure crisis in Cleveland's residential neighborhoods is—just based on what you've seen, is it pretty evident as you get around?

Mr. SHEIL. You can't miss it. Cleveland, as you know——

Mr. KUCINICH. Make sure that mic is on. Would you try again?

Mr. SHEIL. Can you hear me now?

Mr. KUCINICH. Yeah.

Mr. SHEIL. You can't miss it. You could go into every neighborhood, you know. When we show pictures like this, one of things that we're concerned about is do people think we just went and took the one bad street in the neighborhood and took it? I could have pointed my camera in probably almost every neighborhood in Cleveland and found similar scenes. And as Treasurer Rokakis indicated, he has the statistics, ours is just visceral. When you go out to suburbs now, you can start to see this as well. It is just—it's rotting.

And I think, Mr. Chairman, what is significant when we talk to local people there, they want to save these neighborhoods. They still have the infrastructure of neighborhoods in place, but in 5 years I don't think that infrastructure will be there.

Mr. KUCINICH. Well, thank you, Mr. Sheil, again for your testimony to this subcommittee.

Mr. Rokakis, you made a case about instability in neighborhoods in Cuyahoga County. Can you talk about how principal reduction would make a meaningful difference? And what have loan servicers said about it?

Mr. ROKAKIS. Chairman, I've been involved in this crisis now actually for about 9 years. We went to the Federal Reserve Bank of Cleveland back in the fall of 2000 with complaints about what was going on with loans and lending in northeast Ohio in the hopes that the Fed would step up under HOEPA and take some measures to slow the runaway train down. So I've been involved going back to late 2000, very intensely involved in the past, let's say, 5 years with banks and counselors and workouts, and I have to tell you I am exhausted.

And I find that the tools that we really need—as long as these are all voluntary agreements, we are right where we were when we started this process years ago. As long as all we have is maybe a carrot but no stick, as long as all we—all we can do is rely on the goodwill of the banks, voluntary—the words "voluntary" and the phrase "bank loan modifications," bank loan modifications typically don't go together. And what we have found, I'm not surprised by the low percentage of workouts. We've experienced this for years, it is hand-to-hand combat.

I think the one tool that we would like to have is the tool that you and other Members alluded to, Congressman Tierney. If we had the ability to force principal reductions of loans, I think we could—pick a number—triple, quadruple our success of loan modifications.

Mr. Chairman, what I find stunning is that when they agree—when they refuse to modify those principal loan balances, typically the loan and the foreclosing, the family ends up leaving, the property ends up being vandalized, the home value is completely lost, as opposed to partially some of the value lost, and it destroys remaining value left in neighborhoods. If we had the ability to force principal loan modification write-downs, I think we could make a real impact on this problem, but we're losing hope, Mr. Chairman.

Mr. KUCINICH. Thank you very much for your testimony, Mr. Rokakis.

I would like to go to Ms. Stringfield. I want to know a little bit more about your experience with the lending industry. You said that you've been able to refinance your home over the years, and since you bought your home in 1988, for about 20 years you managed just fine with your payments. Now—can you tell us, were you marketed by your lenders?

Ms. STRINGFIELD. Yes, they contacted me.

Mr. KUCINICH. Did they try to get you to refinance?

Ms. STRINGFIELD. Yes. How are you doing? How is things going? Are you having any problems? Yeah, things are a little rough right now.

Mr. KUCINICH. What did they tell—what did they tell you about the—what kind of money you could get, what kind of loans you could get?

Ms. STRINGFIELD. They said that I could refinance my first mortgage.

Mr. KUCINICH. For how much?

Ms. STRINGFIELD. Depends on what I needed, like——

Mr. KUCINICH. Did they tell you your home was worth $420,000?

Ms. STRINGFIELD. Yeah, yeah. I mean, when I talked to them, I told them that I took the loan out for $66-, and when I refinanced with them, it was——

Mr. KUCINICH. You told them what?

Ms. STRINGFIELD. $66,000.

Mr. KUCINICH. And they wanted to refinance $420,000?

Ms. STRINGFIELD. Because that's what the guy came back that did the appraisal.

Mr. KUCINICH. So what happened?

Ms. STRINGFIELD. They came back—well, the first time they came back with the $420-, I said, I don't need that much. They says, well, you can get another $50,000 on your home, and that would pay your son's college, it would help you with your bills. OK. And it is not going to make your payment that much more.

Mr. KUCINICH. So they kept trying to get you to borrow more and more money on a house that wasn't worth——

Ms. STRINGFIELD. Yeah. When it turned out—when I came back to them and said, listen, I need to restructure my loan because my mom is really ill, I don't have any money, I need to get this restructured, I don't want to default. All I want you to do is restructure it and let me lower the interest and get it where I can handle it. And they says, well, we'll have to send somebody out and do the appraisal. This appraisal came out, and he valued the house at 325-.

Mr. KUCINICH. Wow. Now, when you told—you know, you're getting—this value of the house keep getting bigger as they want to loan you more money.

Ms. STRINGFIELD. Yeah.

Mr. KUCINICH. The question is, did you ever have a discussion with them about what happens if you get in trouble paying the loan back?

Mr. STRINGFIELD. Oh, yeah. I asked, I says, well, you know, right now I don't have this money. What if I don't get—oh, Ms. Stringfield, you'll be all right. You know, you can always work it out. We can help you.

Mr. KUCINICH. They'll work with you, right?

Ms. STRINGFIELD. There is not going to be any problem, we'll work with you.

Mr. KUCINICH. Did they work with you?

Ms. STRINGFIELD. No.

Mr. KUCINICH. What happened when you fell behind.

Ms. STRINGFIELD. When I got in trouble, you—the first thing I did was from the literature is call your mortgage company, let them know before you get in trouble. I called before I got in trouble. I was told, we can't do anything until you are 1 month late. Well, ma'am, I'm trying not to be 1 month late. The day of that call was May 3, 2008. And at that time they told me I would have to write a letter. May 15th that letter was in their office because I faxed it in along with a financial report of my earnings and what I had going on.

They then had HOPE NOW contact me. The HOPE NOW representative said, Ms. Stringfield, you're overextended. You need to let your house go. I said, sir, I've been in this house since 1962. Why would I want to let go of my home? Well, you can't afford it. What you need to do is let go of the home and contact D.C. or Maryland and try to get into one of the welfare homes.

Mr. KUCINICH. Now, you did eventually get in touch, though, with the National Community Reinvestment Coalition?

Ms. STRINGFIELD. Right. A friend of mine told me about them.

Mr. KUCINICH. Did they help you?

Ms. STRINGFIELD. They have helped me.

Mr. KUCINICH. I want to thank you for your—your answer to the question, Ms. Stringfield.

We're going to go now to Mr. Jordan of Ohio for any questions he may have.

Mr. JORDAN. Thank you, Mr. Chairman.

To our witnesses, thank you for being here. And you all were here, I believe, when Ms. Caldwell gave her testimony. Do you think the HAMP program has demonstrated significant progress over its 1 year?

Mr. ROKAKIS. I can't speak to the results in Arizona, California, Nevada. I saw the chart just like—I can only speak to the results in Ohio, and I can speak to the results in the community I represent. And the chart speaks for itself. We're third from the bottom.

I spoke with a group of housing counselors who were on a conference call last week. I believe Mr. McCarthy was in on the call. And I thought it interesting that one of the comments made by folks on the phone is that they felt that servicers were more willing to work out a $500,000 mortgage in California than they were to work out seven $70,000 mortgages in Toledo or Cleveland or Dayton. And they felt that they had prioritized which mortgages were really worth their time and energy. They might bristle at that suggestion, but I heard it from too many people on that phone call and others.

So I think that chart—you have to look at that chart that we posted up on those slides. We are third from the bottom.

Mr. JORDAN. Significant progress or not?

Mr. SHEIL. Pardon me?

Mr. JORDAN. Significant progress or not?

Mr. SHEIL. In my role I don't like—I'm not going to comment per se on government—I'm not going to comment on whether a government program is making progress or not. I will say this: Really just going around Cleveland and Dayton and Akron, you can see—you don't really—the charts prove it, but if you just tour the neighborhoods, I don't know whether it is this program or not, but there is an evident decline. I've been covering Cleveland for 20 years. The neighborhoods do not look like what they looked like two decades ago.

Mr. JORDAN. Mr. Rokakis, you talked a lot about the counseling program. This is a local counseling program, is my understanding, local people.

Mr. ROKAKIS. There are four counseling agencies we work with. I mentioned ESOP because, at the request of the attorney general and the Governor, ESOP expanded statewide. They have 11 offices around the State. They're very effective in doing what they do.

Mr. JORDAN. But there are people in Ohio helping Ohioans figure out what's at stake, what's involved, how they're going to do it.

Mr. ROKAKIS. Face-to-face counseling, not a call-in number, face-to-face counseling, which, as Congressman Cummings pointed out, is the most effective.

Mr. JORDAN. I understand.

In your professional judgment, years of experience with this, years of being in Cuyahoga County, years as the treasurer of that county, something as a conservative Republican I believe in is, don't you think you would be better off, instead of having this $75 billion program, 116,000 mortgage modifications done, 3 million the goal but only 116,000 done in 1 year; might we be just a little better off if we said, instead of going with this crazy program, let's take a few of those dollars and let local people help local people, people like Ms. Stringfield, if she were in Ohio or, in the case of D.C., here, help them with some counseling, help them deal with it on a local level versus this concept that we have so embraced around this town over the last 1½ years, big Federal Government with regulations and spending taxpayer dollars and doing all the things they're doing? Do you think maybe that might be a little better approach?

Mr. ROKAKIS. I have seen two programs now. One was a program under the prior administration. I've seen this program. And obviously, both have fallen short. The only thing I can tell you is nothing beats face-to-face counseling one on one, local people helping local folks.

The difficulties faced by Ms. Stringfield, just multiply that by millions of homeowners like her who try to navigate these complicated documents, mortgages being sold once and twice and three times, servicers that aren't responsive. Nothing works better than a counselor.

Mr. JORDAN. I just want to make clear, big Federal Government programs administered by Republicans are no better than big Federal Government programs administered by Democrats; that's the problem. So something on the local level done with a lot less dollars would be much better for the folks who are in a tough situation and, frankly, much more respectful of the taxpayers across this country who are paying for the darn thing.

Mr. ROKAKIS. I would love to avoid those layoffs on Monday. Unfortunately, there are a lot of people going to be looking for help in Cleveland and in Ohio on Monday. They are going to get a tape-recorded message sending them to an 800 calling number.

Mr. JORDAN. Thank you, Mr. Chairman.

Mr. KUCINICH. Thank you very much Mr. Jordan.

The chair recognizes Ms. Kaptur.

Ms. KAPTUR. Thank you, Mr. Chairman, for holding this hearing. I'm really honored to join my Ohio colleagues, and I want to thank this panel for being here today. What's left of democracy in this country we are helping to move forward by your presence. And we are up against some pretty big forces.

What's happened in Cleveland and in Washington and every place else is the largest transfer of wealth in American history. That has come from the equity, from the heart of America, and transferred to a group of people in some of the biggest banks in the world here in our country on Wall Street and down there in Charlotte, NC, who have no conscience for what they have done. In fact, their bonuses this year will be bigger than last year.

Those banks are Bank of America, JP Morgan Chase, Wells Fargo, HSBC and Citigroup.

I was going to ask you, Ms. Stringfield, and thank you very much for being here, which bank were you dealing with? Are you allowed to say?

Ms. STRINGFIELD. Wells Fargo.

Ms. KAPTUR. Thank you. So it's on the list.

The whole conversation about servicers in a way is irrelevant because you can't get at them. They're cleverly sandwiched in between the big banks, who have all the power and are making all the money, despite the unemployment rate of this country and people losing their homes, and Main Street America. You just can't get them.

And in fact, by the servicers extending the servicing period, they're making fees all the time, so they're making more money out of your grief, so they have no incentive. Even though it looks like HAMP gives them an incentive to try to settle, forget it, they're making more money through the Tax Code and through servicing fees by letting the agony continue.

It's interesting we don't have a list of who the 100 or 110 servicers are. I will ask Ms. Caldwell to provide that for the record. But we have to put the pieces of this puzzle together. What didn't come out at most of the hearings in Congress yet is the securitization process failed. The banking system has been changed to not provide accountability and responsibility for those who created the damage. It is a very clever system. It is so clever. You have to have masters degrees in order to create, probably Ph.D.'s, to create this kind of house of cards. But they have done it masterfully.

We need to restore the mortgage loan process, so, Ms. Stringfield, you're not dealing with somebody way out there, but you've got a financial institution here in the Nation's Capital that you can deal with face-to-face and you don't have to go through some absentee counselor here and some group here, but in fact, that the prudent lending system of this country is restored.

And that's the real fight, because the net yield of all of this over all, the crisis that the American people are facing right now is that the biggest banks caused this problem, five of them, now hold over 40 percent of the deposits in this country. It used to be 35, 33. They're going to get half. Five institutions are going to have that much power, and they have that much power.

I was interested in what several of you recommended.

Mr. Rokakis, you're a giant in my eyes. Thank you so much for what you're doing, and don't lose faith because this is the process that should restore America, or at least we have some hope of it happening, if we do our job right.

And I want to thank our chairman. He's got the courage of his convictions, and he's trying to help us in a Congress that's really locked down and not holding the kinds of hearings.

Ms. Stringfield, we should have a thousand of Americans like you testifying. But this Congress isn't meeting its responsibilities to the people, and our people are suffering all over this country. So your presence here today is very important because it's like water in a desert. And so you're doing what you must do on behalf of many that are not being invited to testify by the other committees that should be a part of this.

The idea of principal loan modifications should be being done like that. And if the Securities and Exchange Commission and the Accounting Standards Board and the FDIC were doing its job, that would be happening, but they're not. They're not. And so what's happening is, the net yield is those that caused this have profited so handsomely, grossly, unethically are being rewarded.

And the only way that this changes is if conscious people in the press, like Mr. Sheil, you keep doing your job.

And Mr. Rokakis, don't lose hope, don't lose faith. You keep doing your job.

And Ms. Stringfield, you work with the Community Reinvestment Group; they're wonderful.

We have to keep doing our job and take this to America because the people are losing hope, and we haven't lost hope, so this process really does work.

On the good news front, Secretary Geithner was before our Budget Committee yesterday, and I would like to suggest to the chairman—he offered that Ohio could meet with him—we take him up on that offer.

In fact, I was going to call you, Mr. Rokakis, because I said I know an expert who is not in my district but in ESOP and many other groups. Through the chairman's efforts here, maybe we can structure a session with Mr. Geithner either directly by bringing people to Washington or through teleconferencing where we can get the Treasury, and they shouldn't be the only ones in the room—we should have the FDIC and the SEC and some bankers who really know how to resolve troubled loans on books—in that room and try to make it work for Ohio. And if we make it work for Ohio, it will work for the rest of the country.

Mr. KUCINICH. To respond to my colleague's question and suggestion, we, this subcommittee, in fact, and myself as chairman, we are in touch with Treasury and Mr. Geithner's office about this specific matter. And I'm glad that he responded to you, because I'm hopeful that he'll be similarly responsive to a meeting with Ohioans and the Congress that want to see what can be done to try to save all these homes that are being threatened.

If nothing is done, we can come back here a year from now and all what we'll see is the kind of maps that Mr. Rokakis presented today, just widening. There won't be any open space at all. And we know there will be more people with Ms. Stringfield's story, and there will be more reporters who will be covering neighborhoods across America that are boarded up and abandoned.

I have to tell you, we're going to dismiss this second panel right now, but when I saw, Mr. Sheil, your report and I saw the claw of that steam shovel going to the house, I actually could feel that.

I come from a neighborhood like that. And I represent people in those neighborhoods. We all do. But I come from a neighborhood like that. Being from a Slavic Village, in my district, I know the people that lived in homes like that. I know how people put their entire life on the line to get that kind of a house, who worked day and night, who worked their fingers to the bone to be able to just have a little something, have a piece of that American dream that's called homeownership.

And then you see the big claw just crushing it. It breaks your heart, it really does.

Thank you all for being here with this testimony, and really much appreciated.

We're going to go to the third panel.

Thank you.

While the panel is in transition, I'm going to make the introductions of the credits of the individuals who are going to be before us. They have quite a number of accomplishments, and I think that, by the time they're seated, I'll still be reading those accomplishments.

Mr. David Berenbaum is the Chief Program Officer of the National Community Reinvestment Coalition. It's an association of 600 community-based organizations that promote access to basic banking services, including credit and savings, to create and sustain affordable housing and job development.

Mr. Berenbaum is responsible for coordinating NCRC's fair housing and fair lending compliance initiatives, and he also manages

NCRC's Housing Counseling Network, which, with its affiliates, is a HUD-certified housing counseling intermediary participating in the Neighborhood Works Foreclosure Mitigation Counseling Program.

Ms. Julia Gordon is Senior Policy Counsel at the Center for Responsible Lending. It's a not-for-profit, nonpartisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abuse of financial practices. She specializes in legislative and regulatory policy issues relating to consumer lending, particularly in the area of mortgage lending.

Mr. Ronald Faris is the President of Ocwen Financial Corp. and Ocwen Loan Servicing, LLC; served as Director of Ocwen since May 2003 and as President since 2001. Prior to serving as President of Ocwen, he has held numerous executive positions there and served as comptroller for a subsidiary of Ocwen. He's also served in the General Audit Department of Price Waterhouse Coopers LLP.

Finally, Mr. Ed Pinto served as Executive Vice President and Chief Credit Officer for Fannie Mae in the late 1980's. Since then, he has worked as a consultant to the financial services industry, focusing on credit policy, marketing and product development, published research, commentary and views which are regularly cited by numerous major newspapers, magazines and think tanks.

I would ask the witnesses to stand. It is the policy of our Committee on Oversight and Government Reform to swear in all witnesses before they testify.

I ask that you raise your right hands.

[Witnesses sworn.]

Mr. KUCINICH. Let the record reflect that each of the witnesses has answered in the affirmative. I ask that each of the witnesses give a brief summary of your testimony. Please keep this summary under 5 minutes in duration. I want you to know that your complete written statement will be included in the hearing record.

Mr. Berenbaum, you're our first witness. Please proceed. Thank you.

STATEMENTS OF DAVID BERENBAUM, CHIEF PROGRAM OFFICER, NATIONAL COMMUNITY REINVESTMENT COALITION; JULIA GORDON, SENIOR POLICY COUNSEL, CENTER FOR RESPONSIBLE LENDING; RONALD M. FARIS, PRESIDENT, OCWEN FINANCIAL CORP.; AND EDWARD J. PINTO, REAL ESTATE FINANCIAL SERVICES CONSULTANT AND FORMER CHIEF CREDIT OFFICER OF FANNIE MAE (1987–1989)

STATEMENT OF DAVID BERENBAUM

Mr. BERENBAUM. Thank you.

Good afternoon, Chairman Kucinich, Ranking Member Jordan, and other distinguished members of this committee. We are honored to testify today before you regarding mortgage reform, mortgage foreclosure prevention and the activities currently under way to suggest improvement in this area.

Solving the foreclosure crisis is critical for the economic health of this country. Since the onset of this crisis, $7 trillion of household wealth has been lost. This loss of household wealth translates into reduced consumer spending, depressed business activity, lower gross national product, lower property tax receipts and higher local and State budget deficits.

Foreclosures not only impact individual homeowners but entire neighborhoods through declining property values, increases in abandonment, decay, crime and vandalism. In short, the continued failure to adequately address this crisis multiplies the profound social, cultural and economic injury to our Nation.

The foreclosure tsunami has been further compounded by the highest unemployment rates in the last quarter century. In a vicious cycle, the record rates of unemployment and reduction in wages are now feeding continued foreclosures.

In the face of this great recession, the Bush administration encouraged the private sector to create the HOPE NOW Alliance. The HOPE NOW Alliance recorded 3.1 million loan workouts during 2007 and 2008. But two-thirds of these workouts deferred or rescheduled borrower payments without lowering monthly payments. Meanwhile the foreclosure crisis worsened.

Subsequently, the Obama administration created two programs; the Home Affordable Modification Program and the Home Affordable Refinance Program. Unfortunately, as been noted already both by the chairman and the ranking minority member, these programs are not keeping pace with the foreclosures that we are seeing today.

Our written testimony discusses in detail the origins of the crisis, problematic nonprime and nontraditional lending, compounded by regulatory failure, greed and malfeasance, little or no fair lending or consumer protection oversight, and serious safety and soundness lapses. An analysis of the public information that is available documenting the performance of each of the programs is in our written statement.

The experiences of our Housing Counseling Network, qualified housing councils around the Nation, as well as the testimony of Mrs. Patricia Stringfield document the importance of HUD counselors in this process. However, the magnitude of the foreclosure and unemployment crisis calls for more proactive intervention, and that means a private partnership between both government officials as well as servicers, investors, securitizers and others.

Despite the best of intentions, we are not seeing results in these programs because of their voluntary nature, and a more considered mandatory approach should be taken. Yesterday, the Mortgage Bankers Association announced a voluntary unemployment borrower bridge to HAMP modification programs. That will help a limited number of borrowers who experience temporary unemployment for a period of up to 9 months.

It certainly will not address the preexisting problematic underwriting that occurred, overvaluation, or serve as a substitute for permanent principal reduction or other programs, such as NCRC's HELP Now model that we have suggested in our testimony. The HELP Now model originated in discussions with Wall Street. It uses Wall Street's own reverse auction process to in fact promote the sale of large groups of mortgages, mortgage-backed securities to Treasury or another agency. It could also be, for example, other departments; it could be HUD. But using the current market value of the homes and then passing those savings on to the homeowners, so they have principal reduction, and in turn selling those loans back as 30-year, 40-year fixed rate loans to the private sector at little or no cost to the taxpayer.

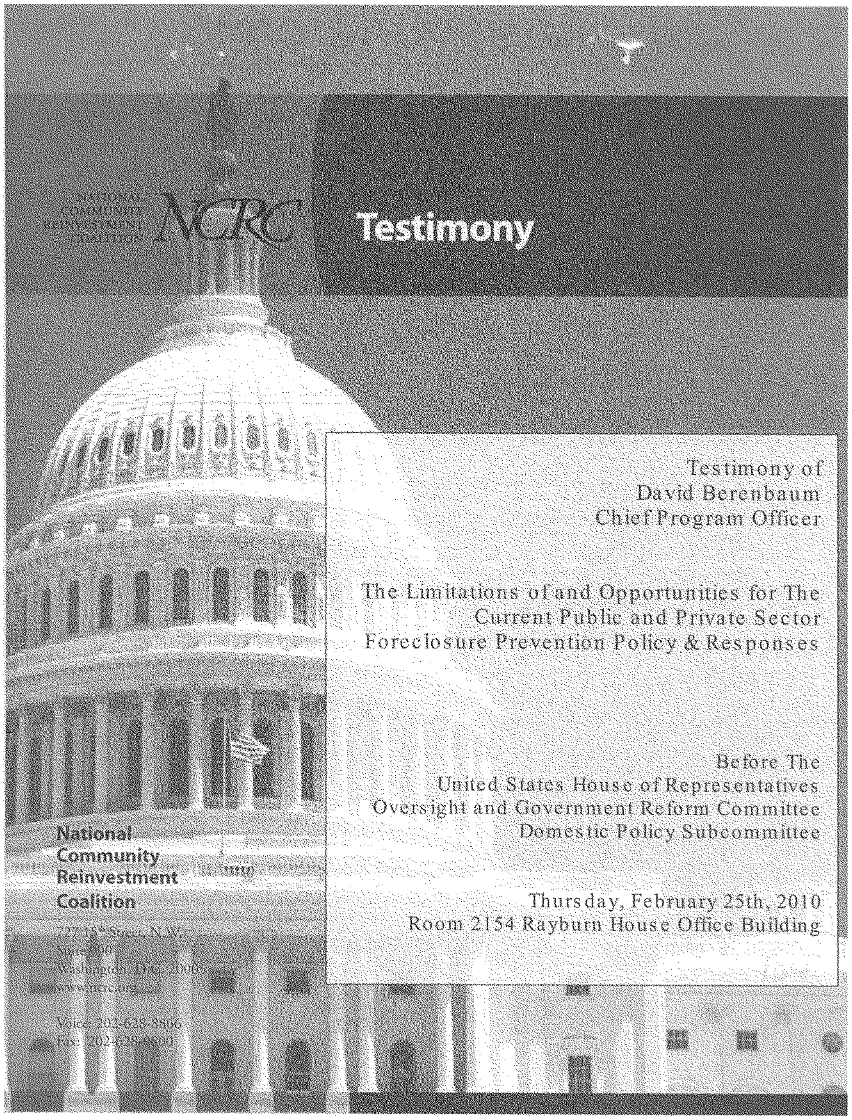
Authority for this program exists under the current TARP program. It exists under eminent domain, and frankly, it could be done with modest changes to the tax requirements if in fact Congress chose to act in that direction.

As well, we want to see loan programs established for the unemployed, such as H.R. 4173 passed by the House, as well as more broad interpretation for principal reductions within the HAMP program. Substantial research documents that the most successful loans, the loans that are not falling out of permanent modifications are in fact loans that have had principal reduction. Last week the administration announced a $1.5 billion initiative to target five States.

We agree with this committee that in fact a much more broad need is necessary. There is no reason to focus on volume or size of loans over the quantity of modifications that are currently needed across our Nation.

In closing, let me say that we also suggest other improvements for HAMP. Those improvements include greater transparency in reporting of data. It includes also expanding areas of the law and judicial modification, as well as expanding and modernizing the Community Reinvestment Act. Thank you.

[The prepared statement of Mr. Berenbaum follows:]


NATIONAL COMMUNITY REINVESTMENT COALITION NCRC

Testimony

Testimony of
David Berenbaum
Chief Program Officer

The Limitations of and Opportunities for The Current Public and Private Sector Foreclosure Prevention Policy & Responses

Before The
United States House of Representatives
Oversight and Government Reform Committee
Domestic Policy Subcommittee

Thursday, February 25th, 2010
Room 2154 Rayburn House Office Building

National
Community
Reinvestment
Coalition

727 15th Street, N.W.
Suite 600
Washington, D.C. 20005
www.ncrc.org

Voice: 202-628-8866
Fax: 202-628-9800

I. Introduction

Good morning, Chairman Kucinich, Ranking Member Jordan, and other distinguished members of the Subcommittee. My name is David Berenbaum and I serve as Chief Program Officer of the National Community Reinvestment Coalition (NCRC). I am honored to testify today before the Domestic Policy Subcommittee of the House Committee on Oversight and Government Reform on behalf of NCRC on the topic of impact of the Administration's foreclosure prevention program and suggestions for improvement.

NCRC is an association of more than 600 community-based organizations that promotes access to basic banking services, including credit and savings, to create and sustain affordable housing, job development, and vibrant communities for America's working families.

Our country faces a foreclosure and economic crisis, dubbed the Great Recession, which is the worst crisis since the Great Depression. It is sadly ironic that this crisis could have been averted or, at the very least, mitigated if Congress and the federal regulatory agencies had increased the rigor of consumer protection and fair lending law and enforcement. A major factor causing this crisis was reckless and irresponsible lending that was not stopped by the regulatory agencies. For instance, the Office of the Comptroller of the Currency facilitated this lending by preempting state law in 2004 and the Federal Reserve Board finally enacted an anti-predatory regulation in the summer of 2008, much too little and too late.

RealtyTrac found that the nation experienced 2.8 million foreclosure filings in 2009, a 21 percent increase from 2008. In its latest report, RealtyTrac finds that the nation suffered foreclosure filings on an additional 315,716 properties in January 2010, a 15 percent increase from January 2009. In just January alone, one out of every 409 homeowners underwent a foreclosure.[1] In addition, the Mortgage Bankers Association (MBA) reports that the national delinquency rate was 9.5 percent and the foreclosure rate was 4.6 percent in the fourth quarter of 2010. The combined delinquency and foreclosure rate of about 15 percent was the highest recorded by the MBA survey.[2]

Solving the foreclosure crisis is critical for the economic health of this country. Since the onset of this crisis, $7 trillion in household wealth has been lost.[3] The loss of household wealth translates into reduced consumer spending, depressed business activity, lower gross national product, lower property tax receipts, and higher local and state budget deficits. Foreclosures do not only impact individual homeowners but entire neighborhoods through declining property values, increases in abandonment, decay, crime, and vandalism. In short, the continued failure to adequately address this crisis multiplies the profound social, cultural, and economic injury to our nation.

Since the federal government exacerbated the foreclosure crisis through its inaction, the government has an obligation to play a major role in ending this crisis. My testimony today will describe in detail the origins of the crisis (problematic lending followed by severe unemployment) since understanding the causes of the crisis is critical to designing programs to end the crisis. The experiences of NCRC's Housing Counseling Network will add important insights in the discussion about the accomplishments and shortcomings of the current Administration programs. NCRC also participates in the Coalition of US. Department of Housing Counseling Intermediaries which has sent letters to Treasury Department officials discussing critical programmatic issues associated with the Administration foreclosure prevention programs.[4]

[1] U.S. Foreclosure Activity Decreases 10 Percent in January According to Realtytrac, February 11, 2010 press release, see http://www.realtytrac.com.
[2] Mortgage Bankers Association, *Delinquencies, Foreclosure Starts Fall in Latest MBA National Delinquency Survey*, February 19, 2010 press release available at http://www.mbaa.org/NewsandMedia/PressCenter/71891.htm.
[3] *The Economy: The Crisis and Response*, a presentation of the San Francisco Federal Reserve Bank, see http://www.frbsf.org/econanswers/crisis.htm?1
[4] See for example, an October 9, 2009 letter to Treasury Secretary Geithner, HUD Secretary Donovan, and NEC Director Summers that highlights process issues in the HAMP program that are elaborated on in this testimony. Letter on file at NCRC.

This testimony will outline several recommendations. These recommendations include:

NCRC's HELP Now Proposal: NCRC's HELP Now proposal features bulk purchases of distressed loans at a discount, refinancing these loans by FHA and the Government Sponsored Enterprises (GSEs) into sustainable mortgages, and then the sale of these mortgages back into the private sector. The government's general eminent domain powers and the statutory language establishing the Troubled Asset Relief program (TARP) provides the authority for the approach of the HELP Now proposal. While the goal of the Administration's Home Affordable Modification Program (HAMP) is laudable, the program has not produced the necessary volumes of modifications because it has relied on voluntary industry efforts motivated by federal subsidies.

In 2008, the federal government guaranteed or owned (via the Government-Sponsored Enterprises, which were put in conservatorship that year) almost 70 percent of the mortgages issued that year. For 2009 and 2010, estimates are as high as 86 percent of the mortgages guaranteed or owned by the federal government. In this context, it is hard to understand why there is not more progress under HAMP and the Home Affordable Refinance Program (HARP) since the government could be more forceful in deciding the fate of the distressed loans it controls. It is time, therefore, to consider a mandatory approach which requires the private sector to be expeditious and to exceed the subsidies offered by the American taxpayer to restructure distressed loans into affordable mortgages.

Need for Principal Reductions: Currently, the HAMP program regards principal reductions or forbearance as one of the last modification options. Substantial research and programmatic experience, however, indicates that significant principal reduction is needed on a large scale, particularly in geographical regions of the country experiencing high levels of negative equity, foreclosures, and nonprime lending. The NCRC Help Now proposal would facilitate principal reduction by requiring financial institutions to sell distressed loans to the federal government at a significant discount.

Establish Loan Program for the Unemployed: H.R. 4173, passed by the House, establishes a $3 billion loan program, modeled after a successful and longstanding Pennsylvania program that provides low-interest loans for unemployed homeowners so that they can continue making loan payments and avoid foreclosure. Last week, the Administration announced a $1.5 billion initiative to be targeted to five states experiencing steep prices declines to establish loan modifications for unemployed homeowners and other distressed homeowners. This proposed funding is a start and will need to be supplemented by additional public and private funding in order to reach adequate scale in the five states and in other states as well.

Process Improvements in HAMP: The Administration must increase fairness and equity in the HAMP program by immediately stopping foreclosure proceedings while borrowers are in the loan modification stage. We are encouraged about media reports indicating that the Treasury Department intends to halt foreclosure proceedings while borrowers are in a trial modification.[5] It is unclear, however, how many other protections are being contemplated by the Treasury Department. For example, will this new policy apply to borrowers being evaluated for trial modifications? In addition, we are pleased that Treasury plans to require consideration of applications from borrowers in bankruptcy. Finally, the Treasury Department must increase the transparency of the Net Present Value (NPV) model that considers eligibility for modifications so that counselors and borrowers can more effectively appeal denials of loan modification requests.

Larger Role for Nonprofit Organizations: Consider a larger role for nonprofits as borrower advocates, including taking over caseloads for servicers who display continued and gross incompetence in executing loan modifications. Another option is for the Treasury Department, the Government Sponsored Enterprises, or servicers to consider contracting out to nonprofit organizations for the roles of underwriting and arranging for modifications or refinances in the HAMP and HARP programs. While further considering nonprofit roles in foreclosure prevention programs, we also urge the

[5] "Obama Mulls Changes to Mortgage Program: More consumer protections may be added to fix long-standing complaints," Associated Press report 3:30 PM, February 22, 2010, accessed via http://www.msnbc.msn.com/id/35525942/ns/business-real_estate/.

Department of Housing and Urban Development to exempt nonprofit counseling agencies from the requirements of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act). Further registration and fee requirements would overburden nonprofit counseling organizations which already must comply with rigorous HUD certification standards.[6]

Enhance Publicly Available Data on HAMP and HARP: Accountability depends on transparency. The cursory reports on HAMP and HARP must be replaced with detailed data disclosure that provides information on applications and denials for modifications by race, income, and gender of borrower so that the public and private sectors can be effectively held accountable for equitably serving all segments of the population.

Require Loss Mitigation and Bankruptcy Reform: Private sector institutions would be more serious about modifying loans if Congress passed laws requiring reasonable and documented loss mitigation efforts before foreclosure and reformed the bankruptcy laws to allow judges to modify loans for primary residences.

Prevent Future Crises: In order to avert future crises, Congress must pass a robust financial regulatory reform bill that modernizes the Community Reinvestment Act (CRA) and expands CRA's coverage to non-bank financial institutions, enacts a comprehensive anti-predatory law, and establishes a strong and independent Consumer Financial Protection Agency (CFPA) with jurisdiction over all consumer protection and fair lending laws, including CRA.

II. Problematic Lending Practices Drive the Foreclosure Crisis

The "originate-to-distribute" model of lending drove the foreclosure crisis. Over the last several years, lending institutions engaged in riskier lending as they realized that they could avoid the financial consequences of such lending by selling loans to investors.

[6] See February 9 letter from the Coalition of Housing Counseling Intermediaries to HUD regarding Docket No. FR-5271-P-01, on file at NCRC.

Policy makers including Federal Reserve Chairman Ben Bernanke acknowledge that the originate-to-distribute model lead to a loosening of underwriting standards.[7] As a result, borrowers became deeply leveraged in debt. Understanding the characteristics of the problematic loans is the key to designing foreclosure prevention programs. Loans that highly leverage borrowers require deep subsidies or reductions in monthly payments in order for borrowers to resume timely loan payments. Foreclosure prevention programs that feature relatively shallow subsidies from either the public or private sector will not succeed in ameliorating the foreclosure crisis.

Substantial research documents the deterioration in underwriting standards and the increase in reckless lending. The Government Accountability Office (GAO) reports that the Federal Housing Administration (FHA) observes a guideline that loans and other debt should not exceed 41 percent of a borrower's monthly income. The GAO then found that 47 percent of subprime loans exceeded this 41 percent debt-to-income ratio in 2000, but by 2007 this worsened to 59 percent of subprime loans exceeding the benchmark.[8]

Likewise, the Federal Reserve found that the percentage of subprime loans which did not involve sufficient documentation of borrowers' incomes increased from 20 percent in 2000 to 40 percent in 2006.[9] Similarly, the share of so-called ALT-A loans (that feature reduced documentation of borrower income) which involved high loan-to-value ratios (LTV) of 90 percent or more surged from 2 percent in 1998 to 32 percent in 2006 according to the St. Louis Federal Reserve Bank.[10] High loan-to-value ratio loans

---

[7] Federal Reserve Chairman Ben S. Bernanke, Speech, *Fostering Sustainable Homeownership* at the National Community Reinvestment Coalition Annual Meeting, Washington, D.C, March 14, 2008, see http://www.federalreserve.gov/newsevents/speech/bernanke20080314a.htm, The Chairman observes, "In this instance, this originate-to-distribute model appears to have contributed to the breakdown in underwriting standards, as lenders often found themselves able to pass on the credit risk without much resistance from the ultimate investors. For a number of years, rapid increases in house prices effectively insulated lenders and investors from the effects of weaker underwriting, providing false comfort."

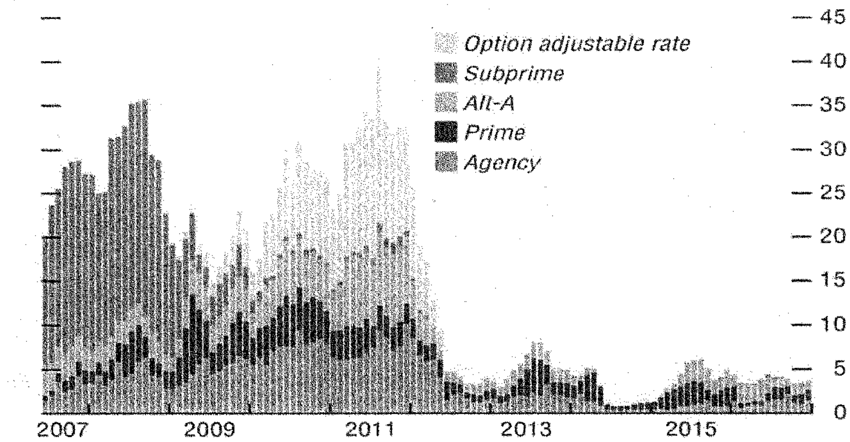
[8] Government Accountability Office, *Characteristics and Performance of Nonprime Mortgages,* report for Joint Economic Committee, July 2009, p. 10, see, http://www.gao.gov/new.items/d09848r.pdf
[9] Federal Reserve System, Truth in Lending: Final Rule, Federal Register, July 30, 2008, Vol. 73, No. 147
[10] Rajdeep Sengupta, *Alt-A: The Forgotten Segment of the Mortgage Market*, Federal Reserve Bank of St. Louis Review, January/February 2010, p. 64, see http://research.stlouisfed.org/publications/review/10/01/Sengupta.pdf

contributed to leveraged borrowers being "underwater" or owing more than their house is worth in the wake of significant price declines.

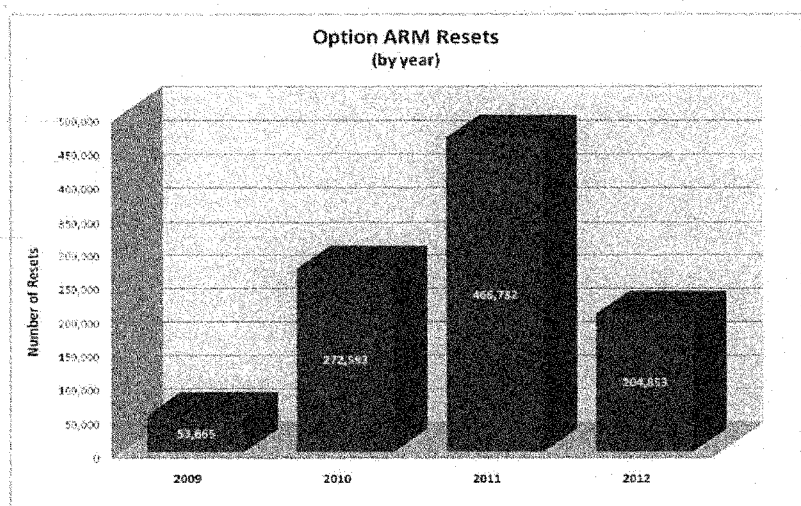
As the following two graphs illustrate, the first wave of problematic loans consisted mostly of subprime loans while the second wave of problematic loans was comprised predominantly of so-called option Adjustable Rate Mortgage (ARM) or "non-traditional" loans. An option ARM loan features payment options that range from paying the principal and interest rate each month to not even paying the entire monthly interest rate. When a borrower chooses the pay the least amount required, the loan negatively amortizes, meaning that the outstanding amount actually increases. This plus the increase in interest rates caused by the ARM feature results in payment shock, or substantial increases in monthly payments that were not usually explained adequately to borrowers. More than 270,000 option ARM loans will have interest rate adjustments or resets this year, and more than 460,000 will have resets in 2011 as shown below. Fitch Ratings finds that the average increase in the monthly payment due to an interest rate reset is an incredible $1,053 or more than 60 percent increase in the monthly payment.[11]

[11] "The Growing Foreclosure Crisis," The Washington Post, January 17, 2009.

Figure 1.7. Monthly Mortgage Rate Resets
(First reset in billions of U.S. dollars)



Source: Credit Suisse.



Because subprime and non-traditional loans exhibited imprudent underwriting, their delinquency rates are considerably higher than prime loans. According to the OCC and OTS Mortgage Metrics report for the Third Quarter of 2009, the serious delinquency rate for prime, Alt-A, and subprime loans were 3.6 percent, 12 percent, and 20.1 percent, respectively.[12] Other estimates of serious delinquency are even higher. For example, the GAO reports a serious delinquency rate for subprime loans at 31 percent and payment option ARM loans at 33 percent.[13] The GAO further reports that among all active non-prime loans, 13 percent are in the foreclosure process.[14]

Another disturbing aspect of the reckless lending is that this lending was targeted to financially vulnerable communities. NCRC's *Broken Credit System* and other research shows that minority neighborhoods received larger percentages of subprime loans than predominantly white neighborhoods, even after controlling for creditworthiness and other housing stock characteristics.[15] Because minorities are more likely to receive high-cost and non-traditional loans than whites, minorities are more likely to experience foreclosure according to researchers at the Federal Reserve Banks of San Francisco and Boston. Laderman and Reid found that African-American borrowers were 1.8 times more likely than whites to be in foreclosure, whereas Latinos and Asians were 1.4 and 1.3 times more likely to be in foreclosure, respectively than whites after controlling for several loan and borrower characteristics.[16] Likewise Geraldi and Willen document that in Massachusetts, underwriting standards for subprime loans were deteriorating over time, but more so for minorities than whites. The median debt-to-income ratios and loan-

---

[12] OCC and OTS Mortgage Metrics Report, Third Quarter 2009, December 2009, p. 17 available at http://www.occ.gov/ftp/release/2009-163a.pdf

[13] Government Accountability Office, *Loan Performance and Negative Home Equity in Nonprime Mortgage Market*, report for the Joint Economic Committee, Dec 09, p. 9 available at http://www.gao.gov/new.items/d10146r.pdf

[14] Government Accountability Office, *Loan Performance and Negative Home Equity*, p. 8.

[15] *Broken Credit System* available via NCRC on 202-628-8866. Paul S. Calem, Kevin Gillen, and Susan Wachter, *The Neighborhood Distribution of Subprime Mortgage Lending*, October 30, 2002. Available via pcalem@frb.gov. also Paul S. Calem, Jonathan E. Hershaff, and Susan M. Wachter, *Neighborhood Patterns of Subprime Lending: Evidence from Disparate Cities*, in Fannie Mae Foundation's Housing Policy Debate, Volume 15, Issue 3, 2004 pp. 603-622

[16] Elizabeth Laderman and Carolina Reid, Federal Reserve Bank of San Francisco, "CRA Lending during the Subprime Meltdown in Revisiting the CRA: Perspectives on the Future of the Community Reinvestment Act," a Joint Publication of the Federal Reserve Banks of Boston and San Francisco, February 2009,
http://www.frbsf.org/publications/community/cra/cra_lending_during_subprime_meltdown.pdf

to-value ratios worsened to a greater extent for African-American and Hispanic borrowers than whites from 1998 through 2006. It follows then that 15 percent of subprime loans originated in 2005 ended in foreclosure by December 2007 for African-Americans, 10 percent for Hispanics, and only 6.5 percent for whites.[17]

Case Study of NCRC Housing Counseling's Network Client

The following is a case study told in the client's own words of a problematic loan, followed by a spell of unemployment and then a new lower paid job, which almost cost the family the home. The modification process was difficult but finally, a final modification appears to be in sight.

We purchased the home on December 29, 2006 for $639,940, feeling pressured to settle for a huge mortgage of $450,000 and a mortgage payment of $2,770 each month. The payment has since been raised due to the escrow going up. The only way the lender could get us into the home, based on our income, was to offer us an interest-only loan. Although we had concerns about the market, we had already tied up $62,000 in earnest money deposit and opened a construction loan. Shortly after, the housing market plummeted and continues to fall even three years later.

Well, about a year after we settled, my husband was laid off from his job as a residential home builder. My career also suffered because I work in the real estate industry. We did what we could while my husband searched for jobs daily for the next eight months until he was able to secure another position. We still have not caught up from the reduction in income during those eight months and we continue to go into more debt just trying to keep up with the bills. My husband's new position has the same title and responsibilities but he is earning $30,000 less in income each year.

We knew we could not keep up with payments because we kept getting into more debt. In January 2009, we requested assistance from the mortgage company, but the process was a nightmare. After submitting the initial package that included all the documents, we had to resend the same documents on three different occasions. I finally got to the point where the situation was too overwhelming and I needed help.

In August of 2009, after many months of confusion and frustration, I reached out to a HUD Counseling Agency located close by in Washington DC, and was then quickly contacted by NCRC. After talking with NCRC, we got results in just over a month. NCRC was able to get my mortgage into the Making Home Affordable Loan Modification Program.

We received a trial modification in the middle of November 2009, and the first of our three trial payments began on December 20, 2009. The new payment has taken a huge financial burden off of me and my family. Our new payments are $2,006.51 which is a $796.04 monthly savings. Most importantly, our new payment includes principal and is on a fixed term. Our previous mortgage was interest only and would adjust upward.

---

[17] Kristopher S. Geraldi and Paul Willen, *Subprime Mortgages, Foreclosures, and Urban Neighborhoods*, Public Policy Discussion Papers, Federal Reserve of Boston, No. 08-06, December 22, 2008.

We have just made our last trial payment and hope to receive our final modification soon. After months of hardship, we are close to getting back to normal without the cloud hanging over our head.

III. Unemployment and the Foreclosure Crisis

The foreclosure crisis has contributed to the highest unemployment rates in the last quarter center.[18] The slump in the lending, housing, and construction industries directly contributed to layoffs. In a vicious cycle, the record rates of unemployment are now feeding continued foreclosures. The Bureau of Labor Statistics reports that for January of 2010, 9.7 percent of American workers are unemployed with 16.5 percent of African-Americans and 12.6 percent of Hispanics unemployed. The long term unemployed (or those unemployed for 27 weeks or at least 6 months) reached 6.3 million or about 43 percent of all unemployed persons.[19] Moreover, when adding the numbers of involuntary part time workers and discouraged workers to the number of unemployed persons, the portion of unemployed and under-employed Americans is about 16 percent of the workforce.[20]

The combined impacts of problematic lending and unemployment suggests that a foreclosure prevention program will need to operate on a large scale and offer relatively deep subsidies and reductions in loan amounts in order to provide sustainable loans for Americans.

IV. Public Sector and Private Sector Modification Efforts Not Keeping Pace

The magnitude of the foreclosure and unemployment crisis calls for aggressive loan modification programs. Despite the best of intentions, the current private and public sector programs do not achieve the scale needed to ameliorate the current crisis.

---

[18] The current unemployment rate is the highest since 1982 according to historical records of the Bureau of Labor Statistics.
[19] Bureau of Labor Statistics (BLS), Economic News Release, Employment Situation Summary, February 5, 2010, see http://www.bls.gov/news.release/empsit.nr0.htm
[20] Authors calculations from BLS data.

The approach of the Bush Administration was to encourage the private sector to embark upon a loan modification program. At the urging of the Administration, financial institutions created the HOPE Now Alliance, whose purpose was to coordinate the foreclosure prevention efforts of counseling organizations, servicers, and other financial institutions. The HOPE Now Alliance recorded 3.1 million loan workouts during 2007 and 2008, but two thirds of these workouts deferred or re-scheduled borrower payments without lowering monthly payments.[21] Meanwhile, the foreclosure crisis worsened.

The Obama Administration created two programs, the Home Affordable Modification Program (HAMP) and the Home Affordable Refinance Program (HARP) that aimed to increase the number of loan modifications and refinances by offering public subsidies to financial institutions and borrowers. Using $75 billion of funding from the Troubled Asset Relief Program (TARP), HAMP's goal is to reach 3 million to 4 million borrowers. HAMP offers servicers $1,000 for each eligible modification and up to $1,000 each year for up to three years during which a borrower has remained current on loan payments. Borrowers receive $1,000 each year for up to five years as long as they remain current on loan payments. HAMP offers additional subsidies to financial institutions for assisting borrowers current on their payments but at the risk of default, for modifying second liens, and for protecting against house price declines. Through interest rate reductions, loan term extensions, and as a last resort principal forbearance or deferment, a borrower's mortgage payment is to be reduced to no more than 31 percent of his or her monthly income.[22] HAMP offers borrowers a trial modification for three months after which the borrower is eligible for a permanent modification if the borrower is current on the payments during the trial period.

---

[21] Patricia McCoy, *Of Loan Modifications and Write-Downs*, a paper presented at Moving Forward: The Future of Consumer Credit and Mortgage Finance - A National Symposium held by the Joint Center for Housing Studies, Harvard University, February 18, 2010 , p. 5, see http://www.jchs.harvard.edu/moving_forward_symposium/conference_drafts/2-3_mccoy.pdf

[22] The "waterfall" process in the HAMP program takes the servicer or lender through a series of steps for making the loan more affordable. Principal reduction is one of the last steps listed.

HARP focuses on mortgages held by the Government-Sponsored Enterprises (GSEs) Fannie Mae and Freddie Mac. Under HARP, mortgages held by the GSEs can be refinanced into the current low rates as long as borrowers are current on their loans and do not have loan-to-value ratios (LTVs) exceeding 125 percent. Before HARP, the GSEs generally could not finance mortgages with LTVs exceeding 80 percent. Unlike HAMP recipients that are usually delinquent on their mortgages, HARP recipients are current on their mortgages. HARP is intended to make loans more affordable for borrowers and also assist underwater borrowers at risk of foreclosure whose outstanding loan amounts exceed the value of their homes. HARP was intended to reach 4 to 5 million borrowers.[23]

While a considerable improvement over the previous administration's programs, the Obama Administration's programs are not keeping pace with foreclosures. Almost one year after its inception, the HAMP program has offered about 1 million trial modifications but has converted only 116,000 of these trial modifications into permanent modifications.[24] In addition, the HARP program has assisted 200,000 borrowers refinance into lower cost loans.[25] The federal government programs alone are not sufficient to reduce the volume of foreclosures that are running at 2 to 3 million per year.

Even combining federal and private sector efforts, however, still does not overcome the number of foreclosures. According to the OCC and OTS, for every six homeowners in foreclosure at the end of the third quarter of 2009, only 1 is in a loan modification or trial plan.[26] Possibly because of the slow pace of converting HAMP trial modifications to permanent modifications, the ratio of loan modifications in process to loan modifications completed fell from 46 percent in July 2008 to 8 percent by October 2009 according to

[23] Treasury Department information on HAMP and HARP, see Home Affordable Modification Program: Overview, Homeowner Affordability and Stability Plan Fact Sheet, Making Home Affordable.gov – Borrower: Frequently Asked Questions

[24] Making Home Affordable Program, Servicer Performance Report though January 2010, Treasury Department release of February 17, 2010, p.4, see http://www.financialstability.gov/docs/press/January%20Report%20FINAL%2002%2016%2010.pdf.

[25] Dina ElBoghdady and Renae Merle, Refinancing unavailable for many borrowers, Washington Post Staff, Sunday, February 14, 2010; A01.

[26] OCC and OTS Mortgage Metrics Report, December 2009 report on the Third Quarter 2009, p. 6.

the State Foreclosure Prevention Working Group.[27] On the positive side, the OCC and OTS find that servicers have implemented almost twice as many home retention actions (loan modifications, short sales, and other alternatives to foreclosures) as new foreclosures in the third quarter of 2009, which is an improvement over previous quarters.[28] While an improvement, it is still not fast enough.

V. Quality of Loan Modifications

Speed is a necessary but not sufficient element for successful modifications. The modifications must also offer enough of a reduction in monthly payments in order to result in loans that are sustainable and affordable for borrowers. Although the high volumes of reckless lending has created the need for significant reductions in payments, approximately 70 percent of the modifications have actually increased monthly payments according to the State Foreclosure Prevention Working Group.[29] Modifications that increase monthly payments usually involve tacking on missed payments and late fees onto outstanding principal. In contrast, only 9 percent of loan modifications reduce loan principal by more than 10 percent. Since the great majority of loan modifications increase monthly loan costs, it is not surprising that the re-default rate on modifications is high. The OCC and OTS find that about half of all loan modifications re-default after six months.[30]

Fortunately, the most recent modifications usually involve reductions in monthly payments. The OCC and OTS report that 80 percent of all loan modifications in the third quarter of 2009 reduced monthly payments. Modifications with principal reductions were 13 percent of all modifications in the third quarter, up from 3 percent in the first quarter of 2009.[31] And just last week, the Treasury Department's data indicated that 27

---

[27] State Foreclosure Prevention Working Group, *Analysis of Mortgage Servicing Performance*, Data Report No. 4, January 2010, p. 16, see http://www.csbs.org/Content/NavigationMenu/Home/SFPWGReport4Jan202010FINAL.pdf
[28] OCC and OTS Mortgage Metrics Report, December 2009 report on Third Quarter 2009, p. 8.
[29] State Foreclosure Prevention Working Group, January 2010, p. 2.
[30] OCC and OTS Mortgage Metrics Report, December 2009, p. 5.
[31] OCC and OTS Mortgage Metrics Report, December 2009, p. 5.

percent of HAMP permanent modifications involved principal forbearance.[32] However, it is unclear how much of a reduction in principal is occurring in the HAMP modifications. The median debt-to-income ratio of a permanent modification is still a high 59 percent.[33] In other words, after a HAMP permanent modification, payments on all debt still consumes almost 60 percent of a borrower's income.

Re-default rates are much lower for modifications that involve significant reductions in monthly loan payments. The OCC and OTS find that 38.6 percent of modifications that reduced payments by 20 percent or more re-defaulted while 66 percent of modifications that did not reduce payments re-defaulted after one year.[34] Though mixed, the evidence suggests that the trends are in the right direction in terms of the extent of reductions in monthly payments. The question remains whether these trends will continue and whether the speed of modifications will increase.

VI. The Need for Principal Reduction

As discussed above, significant reductions in monthly payments are needed for successful and sustainable modifications. Oftentimes, the most effective means to offer significant reductions in monthly loan payments is to offer reductions in loan principal or the outstanding loan amount. About 25 to 30 percent of homeowners in this country have negative equity, meaning that they owe more on their outstanding loan balance than their homes are worth. A number of these borrowers will lose their incentive to continue making loan payments because equity losses are substantial. Even after several years of making payments, these borrowers may not have accumulated any equity, particularly in parts of the country experiencing sharp home price declines. Much has been written about strategic defaults, or borrowers simply walking away from what looks like a hopeless proposition of reclaiming their wealth. In addition, other "underwater"

[32] Making Home Affordable Program, Servicer Performance Report though January 2010, Treasury Department release of February 17, 2010, p.6.
[33] Treasury Department, p.6.
[34] OCC and OTS Mortgage Metrics Report, December 2009, p.7.

borrowers end up defaulting because they are struggling with monthly payments and find themselves unable to qualify for refinance loans due to negative equity.

In paper last summer, the Center for Community Capital found that loans involving principal reduction are least likely to re-default, using a sample of nonprime loans and controlling for loan characteristics, borrower characteristics, local economic conditions, and servicer practices. Because a loan modification with a principal reduction reduces LTV, the modification has lower re-default probabilities even when it results in same monthly mortgage payment as an interest rate reduction. The paper revealed that a combination of principal and rate reduction lowers re-default probability by 19 percent while rate reduction only lowers re-default probability by 13 percent. In addition, deeper reductions in monthly payments were more effective; reducing a borrower's payment by 5 to 10 percent lowers the probability of re-default by 10.3 percent, but reducing payment by 30 to 40 percent lowers the probability of re-default by 18 percent. Finally, borrowers with negative equity are more likely to default than borrowers with equity.[35] The paper maintains that "principal forgiveness modification has the lowest re-default rate very likely because it addressed both the short-term issue of mortgage payment affordability and the longer-term problem of negative equity."[36]

In a follow-up paper, the Center for Community Capital offers valuable and practical suggestions for geographical targeting of various types of modifications. The Center suggests that when the desired payment reduction needs to be large, Net Present Value (NPV) tests indicate that a combination of rate and principal reduction is most effective. Principal reduction is the best option according to the NPV tests when payment reductions of 20 to 30 percent are needed. In addition, principal reductions are most effective in states with high levels of subprime lending, steepest price declines, highest foreclosure rates, and weak job markets. In particular, principal reductions are particularly needed in California, Nevada, Arizona, and Florida. In contrast, in other

[35] Roberto G. Quercia and Lei Ding, *Loan Modifications and Redefault Risk: An Examination of Short-term Impacts*, Working Paper, July 21, 2009, Center for Community Capital, pp. 13-14, see http://www.ccc.unc.edu/documents/LoanMod_Redefault_7.20%202009.pdf
[36] Ibid., p. 16.

geographical areas where borrowers have some equity rate reductions and loan term extensions are feasible.[37]

A Government Accountability Report (GAO) issued this past December sheds additional light on geographical areas most in need of principal reductions. In 16 large metropolitan areas, an incredible 59 percent of nonprime borrowers had negative equity. This included 94 percent of nonprime borrowers in Las Vegas, 89 percent in Phoenix, 86 percent in Miami, and 80 percent in Minneapolis. The total amount of negative equity for nonprime borrowers (the difference between outstanding loan balances and property values) was $54 billion overall and $36,000 for the median borrower.[38] The negative equity estimate looms even larger in terms of wealth loss for nonprime borrowers and their neighborhoods if many of these borrowers subsequently default absent foreclosure prevention assistance. In addition, negative equity loses for all borrowers are much larger. The 25 percent drop home prices from the 2006 peak has left homeowners underwater by $745 billion, according to First American CoreLogic.[39]

VII. Barriers to Modification

Losses to lenders on nonprime foreclosures are as high as 50 percent, yet the pace of modifications remains frustratingly slow.[40] It would seem that it would be preferable for a financial institution to modify a loan and take a loss of 20 to 30 percent or even 40 percent rather than undergo the considerable costs associated with a foreclosure. However, several structural, institutional, and financial barriers to modifications include compensation mechanisms, credit rating agencies, and second liens, which are now reviewed in turn.

---

[37] Roberto G. Quercia and Lei Ding, *Tailoring Loan Modifications: When is Principal Reduction Desirable*, Working Paper - August 23, 2009, Center for Community Capital, pp. 16-20, see http://www.ccc.unc.edu/documents/Tailor.Loan.Mods.8.23.09.pdf

[38] Government Accountability Office, *Loan Performance and Negative Home Equity*, p. 14 & 17.

[39] John Gittelsohn and Prashant Gopal, *Principal Cuts on More Lender Menus as U.S. Foreclosures Rise*, Bloomberg, January 7, 2010.

[40] Chairman Ben. S. Bernanke, *Housing, Mortgage Markets, and Foreclosures*, Speech, December 4, 2008 at the Federal Reserve System Conference on Housing and Mortgage Markets, Washington DC, see http://www.federalreserve.gov/newsevents/speech/bernanke20081204a.htm

Case Study of NCRC Housing Network Client

This case study involves Patricia Stringfield, who is here today to testify.

I am a resident of the District of Columbia; I am a single parent who has worked her entire life to make sure my son is well taken care of. In 1988, I purchased our family home from my mother.

After my mother was diagnosed with dementia, I became her primary caretaker. This caused more stress and a greater burden to cover the bills. When I contacted my lender, they told me that they could refinance my loan to help cover the increased balances on my credit cards and to pay off my son's education loans. They also suggested that I go to another lender to get a second mortgage as my home had plenty of equity in it and could help pay the bills; I followed their advice and got a second mortgage.

When gas reached $4 a gallon, I became stretched again because I depend on my car to get to my job. My savings account became depleted and I turned to taking out loans on my 401K until I was told I was no longer allowed to do so. After many months, I was no longer able to stay current on my mortgage, and I even had to turn to neighbors to buy food for me. I missed a few payments and then contacted NCRC. NCRC arranged a workout with both lenders, holding the first and second mortgage, but then the lender with the first mortgage balked.

Facing foreclosure, I moved out of my house and rented an apartment in February 2009. NCRC was then able to get me a three month HAMP trial loan and the lender cancelled the foreclosure sale. I moved out of the apartment and back into my house in April. The landlord told me that I would have to pay 6 months of rent because I had broken my lease without 30 days of notice. NCRC stepped in and is negotiating with the landlord.

I made two payments on my trial HAMP loan but then was sent another agreement in June 2009 with a different payment amount. I made my payments for five months, only to be told that my permanent modification had been denied because of missing information. This was not the case as all documents had been submitted. My counselor at NCRC tried several times to get the lender to reduce the amount I owe but was not successful even though the house is now less than the amount I owe.

Seeing that the lender was intent in denying me again, NCRC asked them to review the file one more time. I was not sleeping well and crying almost every night because the lender told me I was in foreclosure again. I thought we had fixed everything back in April of 2009 and we were still in this back-and-forth.

Ms. Stringfield is now in her fourth HAMP trial modification. The Net Present Value (NPV) test rejected her application for a permanent modification in December. The fourth HAMP trial modification was signed this week by Ms. Stringfield and she will make the first payment in March. We hope this all ends very, very soon.

Compensation Mechanisms: In a recent article for a Harvard symposium, Law Professor Patricia McCoy postulates that compensation mechanisms for servicers provide a disincentive for principal write-downs and substantial reductions in monthly borrower payment. Servicers typically collect a fee of 25 to 50 basis points of the outstanding loan amount.[41] Thus, servicers have a disincentive to reduce the principal amount because that type of modification directly reduces their fee. Instead, servicers may prefer interest rate reductions or adding arrears and fees to the outstanding loan amount because these types of modifications do not directly affect the principal and thereby cut into their fees. Interestingly and coinciding with McCoy's theory, the OCC and OTS find that the great majority of principal reductions occur in loans held in lender portfolios rather than loans serviced for investors.[42]

The costs associated with foreclosure prevention and modification are not recouped by the servicer since the servicing fee remains flat and is not adjusted to compensate for foreclosure prevention costs. The flat fee therefore makes foreclosure less costly than modification for the servicer. HAMP addresses this to some extent by providing subsidies for modification. Yet, it is also possible that the servicers may have an incentive to provide temporary rather than permanent modifications since temporary modifications involve less underwriting and fewer costs.[43]

Credit Rating Agencies: Credit rating agencies make their ratings of servicers conditional on servicers not delaying foreclosures on distressed loans.[44] Coupled with compensation mechanisms that discourage modifications, credit rating agency assessment of servicer performance is a strong incentive for servicers to pursue foreclosure. In fact, a common complaint by counseling agencies is that foreclosure proceedings do not stop while they are trying to help a borrower modify a loan.

The credit rating agencies also exacerbated the foreclosure crisis in communities of colors by awarding inflated ratings to reckless nonprime lending. NCRC has filed discrimination complaints with the Department of Housing and Urban Development

[41] Patricia McCoy, *Of Loan Modifications and Write-Downs*, a paper presented at Moving Forward: The Future of Consumer Credit and Mortgage Finance - A National Symposium held by the Joint Center for Housing Studies, Harvard University, February 18, 2010 , p. 11, see http://www.jchs.harvard.edu/moving_forward_symposium/conference_drafts/2-3_mccoy.pdf.
[42] OCC and OTS Mortgage Metrics Reports for Third Quarter 2009, released December 2009, p. 25.
[43] McCoy, p. 13.
[44] McCoy, p. 13.

alleging that the credit rating agencies (Standard & Poor's, Fitch, and Moody's) violated the Fair Housing Act by fueling imprudent mortgage lending.[45]

Second Liens: The interests of financial institutions holding the first and second mortgages of distressed borrowers often diverge and thus prevent modifications. In some cases, the second lien holder will not allow the first lien holder to modify the loan because the second lien holder believes that its claim for borrower payments may be wiped out by the modification. In other cases, McCoy states that under existing law if a first mortgage undergoes significant modification, the holder of the first mortgage loses its status as a first mortgage holder and the second mortgage holder is now in the first position for receiving loan payments.[46] No satisfactory mechanism has yet been established to deal effectively with the issue of second liens. The HAMP program has a second lien component offering subsidies for second lien holders to participate in modifications. Bank of America is to be commended as the only bank that has signed up to participate in the HAMP second lien program. It is quite disappointing that no other bank has done so.[47] The resistance to modifications posed by second liens is a tremendous barrier since about one third of subprime 2/28 hybrid ARMs issued in 2005 and 2006 also had second lien loans.[48]

VIII. Experience of NCRC Housing Counselors

NCRC's Housing Counseling Network is a HUD Certified National Housing Counseling Intermediary and a participant in the NeighborWorks National Foreclosure Mitigation Program. NCRC and our member organizations assist borrowers in negotiating with servicers and other financial institutions, and this year will train over 1000 Housing Counselors to identify and overcome fair lending and fraud issues while working on behalf of consumers. Each year, NCRC and our members work with more than 10,000

[45]See January 2009 NCRC press release via http://www.ncrc.org/index.php?option=com_content&task=view&id=409&Itemid=75
[46] McCoy, p.15.
[47] Renae Merle, *Administration Pushed to Expand Foreclosure Program: Jobless Homeowners Need More Help, Housing Advocates Say*, Washington Post, February 18, p. A13.
[48] McCoy, p. 15.

consumers. In a previous report, NCRC estimated that the 5,000 modifications and refinances spearheaded by the Housing Counseling Network saved borrowers about $500 million in equity.

Institutional Capacity Constraints: NCRC's housing counselors report that the HAMP program has been "unpleasant and frustrating." Some observers suggest that servicers have been established as collection agents, collecting and processing borrower payments. The servicers are therefore not equipped to deal with a foreclosure crisis. NCRC's counselors' experience comports with this observation.

NCRC's counselors report that the initial phone call is with a servicer's customer service representative. This call is often cordial, and initial intake items such as documentation are discussed. However, in a number of cases, the customer service representative subsequently has erroneous information regarding the loan. To compound the frustration, in the great majority of cases, the counselors cannot speak to the next layer of personnel in the servicing company.

The next layer of personnel in servicing companies is known as negotiators. The negotiator has underwriting discretion, but our counselors do not have access to the negotiator. The customer service representative is the go-between between NCRC counselors and the negotiator. The customer representatives, however, are usually not equipped with the knowledge to effectively communicate about the complexities of loan modifications. As a result of this cumbersome process, communication is difficult.

Meanwhile, the negotiator is actually negotiating with the homeowner over terms of the modification and will send modification offers to the homeowner. Without direct communication with the negotiator, the NCRC counselors believe they cannot safeguard the interests of the homeowner. For example, the negotiator will often send modification offers that look like HAMP modifications and even have similar language or logos, but in fact, the modifications are the bank's own internal modification offers, which are usually not as beneficial for the borrower. NCRC counselors question the ethics of this practice.

In addition, losing documents is commonplace. NCRC's counselors often have to re-submit documents four or five times. The counselors assert that there should be a standard technological tool such as e-faxes for submitting documents that ensure that documents are stored and not lost.

According to the NCRC counselors, the current process is not well equipped to produce an "end result." Moreover institutional reforms such as the HAMP escalation process and the special counselor hotline have not been effective.

In perhaps an acknowledgment of limited capacity, a recent trend involves financial institutions selling distressed loans to other institutions as the modification process has started. NCRC's counselors surmise that the selling institution does not want to deal with the complexities of the modification. In some cases, the loan sales are to financial institutions which are seeking a niche as modification specialists. These quick sales, however, complicate the counselors' efforts since they must essentially start over with a new institution.

Quality of Modifications: The extent of underwriting before the borrower receives a trial modification affects the ability of the borrower to achieve a durable solution by transitioning into a permanent modification. According to NCRC's counselors, some large financial institutions qualify borrowers for trial modifications based on the borrowers' verbal representations of income and other underwriting variables while other institutions qualify borrowers for trial modifications based on documents. The quicker qualification process gets a borrower into a trial modification faster but tends to delay the transition to the permanent modification. In these cases, documents need to be retrieved at the end of the trial modification time period. Then, additional underwriting and changes to the modifications often need to occur to take into account inconsistencies in information gathered during the trial and permanent modification process. Trial modifications can stretch into a time period of six months or more as these inconsistencies are ironed out. Stress for all parties increases during this uncertain time period.

Late last month, the Administration released new HAMP guidelines requiring a standard set of documents to be obtained as borrowers are being evaluated for temporary modifications. [49] This will hopefully reduce inconsistencies among institutions for evaluating borrowers for trial modifications, bolster the quality of underwriting during the temporary modifications, and will make the transition between trial and permanent modifications more efficient.

Regarding permanent modifications, NCRC's counselors report that the modifications usually offer interest rate reductions and that the modifications do not achieve the optimal solution in terms of affordability for borrowers. The interest rate modifications often offer rates of 4 to 5 percent and rarely reach the lowest rate of 2 percent permissible under the program. While the higher rates maybe affordable for a number of borrowers, there are cases in which the lowest rate is needed. In addition, principal reduction is rare in the experience of NCRC's counselors. On occasion, interest rate reductions have been accompanied by fees added to the loan amount or upfront fees, which can actually increase monthly payments for borrowers experiencing financial distress.

NCRC counselors observe that the haphazard quality of loan modifications reflects financial institution ambivalence about the HAMP program. Some institutions may be going through the motions and not seeking permanent modifications in which they have to make significant financial sacrifices because they may be waiting for additional government subsidies or even outright purchases of their distressed loans. The continued reluctance to offer principal reductions most likely reflects an aversion to taking a "haircut" (accepting a loss, which would probably be less than the loss associated with foreclosure but still a significant loss). Finally, other institutions may still prefer their own internal modifications and steer borrowers towards them since private sector programs typically modify loans for five years (and then require a refinance) whereas a HAMP modification locks in loan terms and conditions for 30 years. Professor McCoy also suggests a possibility of gaming the system by some servicers. She states, "At worst

[49] *Administration Updates Documentation Collection Process and Releases Guidance to Expedite Permanent Modifications*, January 28, 2010 press release, http://www.makinghomeaffordable.gov/pr_01282010.html

some servicers may be playing a cynical game of pocketing HAMP payments at the temporary modification stage with no intent of graduating to permanent modifications."[50]

Denials of Loan Modifications: The HAMP program features a Net Present Value (NPV) analysis that requires financial institutions to assess if the value of the modification exceeds the value of a foreclosure for investors owning the distressed loans. Since losses associated with foreclosure are steep, it was anticipated that the NPV analysis would promote modifications. The NPV analysis, however, is opaque to NCRC's counselors and many other counseling organizations since the formulas used by the NPV model and the inputs (variables considered by the model) have not been revealed by the Administration. Denials of loan modifications appear to be arbitrary and hamper appeals of denials. Counselors do not know the underwriting variables used by the model and whether the data for the variables was even accurate. It is not possible for counselors to assess whether borrower income data, property value, or other data used by the model was accurate.

IX. Recommendations

As discussed above, the pace of loan modifications needs to be significantly increased and the quality of modifications needs to be bolstered. Deeper reductions in principal loan payments need to occur, particularly in parts of the country experiencing high levels of negative equity. The recommendations below address the limitations of the HAMP and HARP program as well as including recommendations for preventing future foreclosure crises.

NCRC's HELP Now Proposal

In early 2008, NCRC proposed the establishment of a national Homeowners Emergency Loan Program (HELP Now). It would authorize the Treasury Department to buy troubled loans at steep discounts (equal roughly to their current write-downs by financial institutions) from securitized pools. This would result in a relatively low cost to

[50] McCoy, p. 21.

taxpayers. The government would arrange for these loans to be modified through existing entities such as Fannie Mae and Freddie Mac, and then sell the modified loans back to the private market. The program would be relatively easy to implement, as it does not require the creation of a new entity.

The purchase discounts would be applied to the modification of problem loans to create long-term borrower affordability. Reflecting the write-downs by financial institutions, the government would purchase loans at a 30 percent to 50 percent discount. The write-downs would address the need for deep reductions in principal, particularly in parts of the country experiencing steep price declines and high levels of negative equity. If the discounted loans are still not affordable for some borrowers, the government could offer a low-interest second mortgage that could be due upon sale of the property.

The HELP Now proposal would rely on the federal government's power of eminent domain in order to purchase loans from investors and servicers. The current economic crisis would justify the government's use of eminent domain laws for a compelling public purpose. The statutory language establishing the Troubled Asset Relief program (TARP) also provides the authority for the approach of the HELP Now proposal.[51]

Eminent domain would overcome several barriers. Through compulsory purchases of troubled loans, HELP Now does not have overcome the series of financial and institutional impediments to coax reluctant servicers, investors, and lenders to participate—unlike the voluntary programs. Utilizing the federal government's power of eminent domain avoids lawsuits from disgruntled investors. Furthermore, as Harvard Law Professor Howell Jackson points out, eminent domain can also solve the barriers related to first and second liens by directly purchasing all mortgages on targeted properties.[52]

---

[51] Title I, Section 101 of H.R. 1424, the Emergency Economic Stabilization Act of 2008, states that "The Secretary is authorized to establish the Troubled Asset Relief Program (or 'TARP') to purchase, and to make and fund commitments to purchase, troubled assets from any financial institution, on such terms and conditions as are determined by the Secretary, and in accordance with this Act and the policies and procedures developed and published by the Secretary." Troubled assets are defined as residential mortgages and any securities related to such mortgages.
[52] Professor Howell E. Jackson memo to the House Financial Services Committee, November 28, 2009, on file at NCRC.

The use of eminent domain can alleviate pricing uncertainties and therefore unfreeze the credit market. The eminent domain method can establish fair prices for mortgages through existing judicial mechanisms.[53] Once fair prices are established, a secondary market can then be reestablished and voluntary efforts to refinance mortgages will probably accelerate. In order to unglue markets quickly and to target the greatest need, Professor Jackson proposes that eminent domain focus on the most problematic loans in geographical areas of the country where home prices have fallen significantly. This is similar to the targeting recommendations of the Center for Community Capital.

After the government has used eminent domain for a significant amount of loan purchases, HELP Now could also use reverse-auction mechanisms. In a reverse auction, financial institutions will name their price for selling troubled loans to the government. The objective will be to move HELP Now to more of a voluntary model and to accelerate loan modifications after the most troubled loans have been removed from the financial system via the use of eminent domain.

HELP Now would be an efficient use of government resources. As NCRC originally proposed, HELP Now would require an initial government outlay of about $50 to $100 billion to purchase loans and would institute a revolving loan fund mechanism. Now that $75 billion has been allocated to HAMP, a HELP Now approach can use a portion of that funding, the level of which would be determined by a needs analysis focusing on the areas of the country with the steepest price declines, and highest levels of negative equity and subprime lending.

The government would be reimbursed for its loan purchases after it sells the loans (which have been modified) to Fannie Mae, Freddie Mac, or private sector investors. Moreover, the government would be able to establish mandatory underwriting criteria in order to guard against re-defaults. Unlike the Hope for Homeowners and the FDIC's Indymac program, the government would not guarantee the loans would therefore not assume significant losses.

[53] In cases of price disputes when the government has used eminent domain, a judge or mediator will rule on a fair price.

The large-scale modification program must also use neutral third-party counselors to represent the interests of borrowers. A key to NCRC's Housing Counseling Network's success is the intervention of counselors from a non-profit organization that represents the borrower, and not the interests of the lender, servicer, or government. The counselors are therefore able to ensure that borrowers obtain an affordable and sustainable mortgage. Under a TARP program, the counselors should be empowered to review the proposed modification and suggest any further alterations necessary to achieve long-term affordability.

The government could also ensure that renters receive protections under its program. A sizable number of distressed loans involve investors who do not live in the property and have rented the properties to tenants.[54] Currently, tenants face eviction with little or no notice after a foreclosure. In these cases, the government must provide sufficient time and relocation assistance for the tenants.

Establish Loan Program for Unemployed

The rapidly increasing unemployment rate is now driving foreclosures. In order to keep pace with rising unemployment, Congress and the Administration should consider implementing a program like Pennsylvania's Home Emergency Mortgage Assistance Program (HEMAP). When a homeowner becomes unemployed involuntarily, the state's housing finance agency will arrange for a two-year loan of up to $60,000 to enable the homeowner to continue making payments until the borrower's income recovers.[55] Since the program's inception in 1983, HEMAP has assisted more than 40,000 homeowners. The program is cost-effective in that it received an initial state appropriation with subsequent funding that came from borrower loan repayments. A federal program like

[54] Fifteen million tenants or about 40 percent of all renters live in single family homes, many of which are owned by small scale investors. A segment of this large population is at risk during the current foreclosure crisis. See J.W. Elphinstone, What if Your Landlord Faces Foreclosure, Associated Press article appearing in the Washington Post, January 3, 2009.

[55] See http://www.phfa.org/consumers/homeowners/hemap.aspx and http://www.phfa.org/forms/brochures/foreclosure_prevention/HEMAP_2008.pdf.

HEMAP would most likely require a significant initial capital outlay, but could be sustainable through self-financing.

H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009 which passed the House, would make available $3 billion of Troubled Asset Relief Program (TARP) funding for loans to families and households experiencing unemployment. Modeled after the HEMAP program, each household would receive up to $50,000 for assistance in paying their mortgage. In addition, $1 billion in TARP funding would be made available to state and local governments for the redevelopment of abandoned and foreclosed homes.

In an announcement last week, the Administration also unveiled a $1.5 billion initiative to be funded from TARP that would provide financing to state housing agencies in five states experiencing the greatest home price declines to design programs to assist the unemployed stay in their homes, to provide relief to households experiencing negative equity, or to resolve loan modifications involving second liens.[56] This is a welcome announcement that allows housing agencies to respond flexibly to pressing local needs. In order to adequately address needs in states beyond the five targeted in this initiative, the funding level will need to be supplemented with the funding for the unemployed homeowners in H.R. 4173 and other resources.

Process Improvements in HAMP

As discussed above, several procedural and capacity issues hamstring HAMP's effectiveness. If servicers continue to exhibit widespread incompetence in receiving forms and storing information, the Administration ought to consider placing the responsibility of HAMP modifications with independent third party agents such as nonprofit organizations. In addition, blatantly unfair aspects of the process must end.

[56] The five states are California, Nevada, Arizona, Michigan, and Florida. For more details on the program, see White House, Office of Press Secretary, *President Obama Announces Help for Hardest Hit Housing Markets*, February 19, 2010, http://www.whitehouse.gov/the-press-office/president-obama-announces-help-hardest-hit-housing-markets.

Foreclosure proceedings must be halted while modifications are in process. We are encouraged about media reports indicating that the Treasury Department intends to halt foreclosure proceedings while borrowers are in a trial modification.[57] It is unclear, however, how many other protections are being contemplated by the Treasury Department. For example, will this new policy apply to borrowers being evaluated for trial modifications? What will HAMP's rules be regarding foreclosure proceedings while a borrower is appealing a HAMP denial? NCRC hopes that the Treasury Department errs on the side of protecting consumers and prohibits all aspects of the foreclosure proceedings until all non-foreclosure alternatives are exhausted.

The NPV analysis must be transparent (both the NPV formula and the data used) so that counselors and borrowers can appeal denial requests. The Administration should also establish rules for a fair appeal process.

Enhance Public Data on Loan Modifications

H.R. 4173 requires the monthly disclosure to the public of data relating to modifications executed as part of HAMP. Lenders and servicers would report the number of applications for modifications they processed, approved, and denied. The data would be publicly reported on an individual record level. Currently, the Treasury reports on HAMP are cursory without detail on the extent of principal reductions, the reductions in interest rates or changes in other loan terms and conditions. The OCC and OTS mortgage metrics reports are more detailed but do not present the information for HAMP and non-HAMP modifications separately. The data must also be similar to Home Mortgage Disclosure Act (HMDA) data and disclose the information of applications, approvals, and denials by race, gender, age, and income. HMDA-like disclosure would enable stakeholders and policymakers to assess if fair lending disparities are present in the modification process.

[57] "Obama Mulls Changes to Mortgage Program: More consumer protections may be added to fix long-standing complaints," Associated Press report 3:30 PM, February 22, 2010, accessed via http://www.msnbc.msn.com/id/35525942/ns/business-real_estate/.

HARP Improvements

Considering that Fannie and Freddie, entities in government conservatorship, own or guarantee the mortgages eligible for the HARP program, it is baffling why there has not been more refinances. Perhaps, the Administration should consider placing nonprofit organizations in charge of underwriting or have them as serve as borrower advocates. Nonprofit organizations could be assigned blocks of Fannie and Freddie mortgages that exhibit problematic features such as option ARMs and then represent borrowers who are interested in refinancing into lower rates.

Require Loss Mitigation before Foreclosures and Bankruptcy reform

The power imbalance between financial institutions and borrowers certainly contributes to the slowness and difficulties of securing affordable and sustainable modifications and refinances. A way to reduce the power imbalance and provide incentives for modifications is to establish more checks and balances in the process. For example, before the foreclosure process is started, the financial institution must demonstrate that it has engaged in reasonable loss mitigation efforts including modifications and when modifications are not feasible, short-sales, deeds-in-lieu, and other foreclosure alternatives. Representative Maxine Waters has introduced bills to require reasonable loss mitigation efforts. In addition, the bankruptcy laws must be reformed. Currently, a borrower in bankruptcy can ask a judge to modify almost any type of loan, including consumer loans for luxury items such as yachts. Yet, the current law prohibits borrowers from asking judges to modify loans for their primary residences. If bankruptcy law was reformed to permit this, financial institutions would have an incentive to correct problematic loans or face the possibility of being ordered to do so by a judge.

Preventing Future Crises

If we learn nothing else from this crisis, it must be that Congress must take aggressive steps to ensure that a crisis of this magnitude must not be repeated again. The

Community Reinvestment Act (CRA) requires banks to serve all communities, including low- and moderate-income communities, consistent with safety and soundness. As NCRC has testified on previous occasions before Congress, applying a law requiring the provision of responsible loans and financial services broadly throughout the financial sector would have averted a crisis of this magnitude. Therefore, NCRC urges Congress to consider CRA modernization bills such as H.R. 1479 as Congress considers financial regulatory reform legislation. Just as the House attached an anti-predatory lending bill to H.R. 4173, so should Congress attach a comprehensive CRA modernization bill to financial regulatory reform legislation. Finally, passing rigorous community reinvestment and consumer protection laws will not be enough if Congress does not empower a strong independent agency to enforce the laws. Lax regulatory enforcement contributed to the crisis by enabling abusive and deceptive lending practices. Consumer protection was but one of many competing priorities for a multitude of agencies that had trouble coordinating an approach to consumer protection. Therefore, a Consumer Financial Protection Agency (CFPA) must be established as a strong, independent agency whose mission is protecting and promoting safe and sound lending and other financial services for consumers and communities. The CFPA must have jurisdiction over all consumer protection and fair lending laws, including CRA, in order to adequately safeguard the interests of consumers and neighborhoods.

X. Conclusion

The nation is currently experiencing the worst recession since the Great Depression. Dire economic times require bold leadership from the public and private sectors. Self-interest must give way to the national interest. Financial institutions must sacrifice and offer significant concessions for their self-interest (removing toxic loans from their portfolios) and for the overall economic interest. While an improvement over the previous Administration's programs, the HAMP and HARP programs are not delivering modifications and refinances on the scale and quality required to resolve the foreclosure crisis.

It is time to complement the voluntary nature of HAMP and HARP with mandatory programs such as the NCRC HELP Now proposal, which would be targeted to the most distressed parts of the country as measured by the extent of negative equity, foreclosure rates, and nonprime lending. A number of actions can also be taken to bolster the efficiency and equity of the HAMP and HARP programs including a larger role for nonprofit organizations to advocate on behalf of borrowers, more transparency and data regarding loan modification approvals and denials, a halt to foreclosures while modifications are in process, and establishing fair appeal processes for borrowers denied modifications. New programs and approaches to assist unemployed homeowners must be established immediately if we are to prevent negative feedback loops between foreclosures and unemployment. Finally, future crises must be averted by Congress enacting financial regulatory reform that includes CRA modernization, a comprehensive anti-predatory lending law, and a strong and independent CFPA.

Mr. KUCINICH. I thank you, Mr. Berenbaum, for your testimony. Ms. Gordon, you're recognized for 5 minutes. Thank you.

STATEMENT OF JULIA GORDON

Ms. GORDON. Thank you.

Good afternoon Chairman Kucinich, Ranking Member Jordan and members of the committee.

Thank you so much for inviting me today to talk about the Government's response to the foreclosure crisis. We need a much more robust and effective plan to save homes and prevent unnecessary foreclosures. Over 6 million homeowners are now behind on their mortgages and at risk of foreclosure. More than 2 million foreclosures have occurred in the past 2 years alone.

By 2014, researchers predict that up to 13 million foreclosures may have taken place. This crisis has been particularly hard on African American and Latino communities, widening the already sizable wealth gap between whites and minorities and wiping out entire formerly middle class neighborhoods. The spill-over costs are massive, including lost property values, even for homes current on their mortgages; erosion of the tax base; and the increased burden on municipal services.

Before I talk about the details of foreclosure prevention, I want to refer to the many people who will try to convince you that this crisis was caused by public policies aimed at expanding the American dream of homeownership to all communities. This claim is nothing short of outrageous and insulting. Every single bank regulatory agency has pronounced this allegation false, and there is no good data to back it up. This foreclosure crisis was caused by toxic loan products that were sold to people for profit purposes and that preyed particularly on the communities that I've mentioned above.

Most borrowers could have qualified for cheaper mortgages with less risky terms, and the vast majority of these loans weren't even sold to first-time home buyers. These products were designed to become unaffordable within a couple of years so that mortgage brokers could refinance the same customers over and over again, like Ms. Stringfield, and receive a fee each time. Wall Street's appetite for risky loans was seemingly insatiable, and lenders scrambled to deliver more loans to keep the money coming.

It's also not true that unemployment right now is the culprit rather than bad lending. Risky loans are approximately three times more likely to default no matter what the underlying economic conditions or where you live. In fact, during every other period of high unemployment in recent decades, foreclosure rates remained essentially flat because people had home equity that could cushion the blow.

In responding to this crisis, the Government so far has given the most help to the people who need it the least. Programs to lower mortgage interest rates and the home buyer tax credits have helped support the housing market in the face of historic levels of default but haven't helped the people at highest risk of losing their homes.

As we've discussed already, the centerpiece of the administration's foreclosure prevention effort, the Home Affordable Modification Program, has not reached its potential. A key obstacle impeding HAMP's success is that the private servicing industry has been either unable or unwilling to do the job they need to do. Originally, the HAMP program was meant to be coupled with other legislative changes that would have backstopped the program and provided other incentives for servicers to perform, but those legislative changes did not occur.

As a result, HAMP is essentially a voluntary program where homeowners themselves still have no power or control over their situation. Participating servicers routinely violate the program's guidelines and fail to convert performing trial modifications into permanent ones in a timely way. Homeowners are given very little information about how their loan modification request was evaluated, and they have no independent appeals process if they believe their request was denied unfairly.

In our written testimony, we've laid out a number of detailed suggestions for improving HAMP. What I want to focus on here is the importance of requiring servicers to reduce the principal balances for under water homeowners. Being under water is the most accurate predictor of default or redefault. And until mortgages are right sized on a routine basis, it is unlikely we will see the end to this cycle of redefault.

We also need action outside of HAMP to make HAMP work. A law requiring that servicers evaluate all homeowners for loan modification prior to initiating foreclosure could give homeowners the right to fight their foreclosure if such an evaluation were not conducted.

It's also crucial to permit judicial modifications of mortgages on primary residents. This solution costs nothing to the U.S. taxpayer. It's the only solution that cuts through the Gordian knot of second liens, securitizations, negative equity and back-end consumer debt.

Finally, we need commonsense rules that prohibit lenders from making loans that borrowers can't afford, and we need an independent Consumer Financial Protection Agency. If there's nothing else that we've learned from this crisis it's that it's much easier and far less expensive to prevent problems than to clean up after them.

Thank you so much for inviting me today, and I look forward to your questions.

[The prepared statement of Ms. Gordon follows:]

Testimony of Julia Gordon, Center for Responsible Lending
Before the U.S. House of Representatives
Committee on Oversight and Government Reform
Subcommittee on Domestic Policy

"Foreclosures Continue: What Needs to Change in the Government Response?"

February 25, 2010

Good morning Chairman Kucinich, Ranking Member Jordan, and members of the committee, and thank you for the invitation to discuss the Administration's response to the foreclosure crisis.

As you know, we are now facing historic levels of homes lost through foreclosures. Not every individual foreclosure can or should be stopped, but there is an urgent need to stop the epidemic by closing the growing chasm between prevention and losses. Without stronger policy intervention, not only will millions of families lose their homes unnecessarily, but massive foreclosures will continue to destroy communities, drag down the housing market, and keep a full economic recovery out of reach.

I serve as Senior Policy Counsel at the Center for Responsible Lending (CRL), a nonprofit, non-partisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices.

CRL is an affiliate of Self-Help, a nonprofit community development financial institution that consists of a credit union and a non-profit loan fund. For close to thirty years, Self-Help has focused on creating ownership opportunities for low-wealth families, primarily through financing home loans to low-income and minority families who otherwise might not have been able to get affordable mortgages. In total, Self-Help has provided over $5.65 billion of financing to 64,000 low-wealth families, small businesses and nonprofit organizations in North Carolina and across America.

The downturns in the housing market and economy are impacting Self-Help as well as other lenders. As a result, Self-Help is grappling with many of the same issues encountered by other lenders, including servicer capacity limitations and homeowners who face foreclosure and other economic challenges. Our testimony today is informed by this experience.

Reckless and abusive lending practices created a nationwide foreclosure crisis that has had catastrophic consequences for families, communities—especially communities of color—and the overall economy. Historically, the housing sector has led the way out of economic downturns.[1] Continued weakness in the housing sector will likely slow or derail economic recovery and hamper efforts to create jobs and reduce unemployment.

We are glad that the Administration has created the Making Home Affordable program to help prevent foreclosures, and we commend the effort to try to modify troubled mortgages through the modification component of MHA (HAMP). Yet there is no "silver bullet" strategy to fix every mortgage or repair every foreclosure-ravaged neighborhood. Moreover, the toxic combination of negative equity and a weak economy means that many homeowners with fixed-rate, prime mortgages are experiencing much higher default numbers as well. The breadth and depth of the housing crisis means that we must address it through multiple approaches and solutions. For HAMP to reach its potential, we must use a sufficiently broad array of tools both within HAMP and in other contexts to target different types of loans, lenders, and homeowner situations.

Here's how HAMP should be changed to improve its ability to combat default and foreclosure:

- Stop foreclosures while servicers evaluate eligibility for loan modifications or other non-foreclosure options.
- Reduce principal balances on troubled loans to ensure that loan modifications are sustainable
- Make the details of the "net present value" (NPV) evaluation model widely available to homeowners and their advocates and improve the model.
- Share loan-level data with the public to ensure that everyone has access to the most complete source of data on foreclosure prevention.
- Assist homeowners who have lost their jobs and do not have nine months of guaranteed unemployment income.
- Transfer servicing duties to companies that don't have conflicts of interest.
- Provide an independent, formal appeals process for homeowners who believe their HAMP application was not handled correctly.
- Permit homeowners who experience additional hardship to be eligible for additional HAMP modifications.
- Require that servicers let borrowers in bankruptcy use HAMP.

We also believe Congress has a crucial role to play in mitigating the crisis. Specifically, we ask Congress to take the following actions:

- Pass legislation mandating loss mitigation prior to foreclosure.
- Ensure that homeowners receiving mortgage debt forgiveness or modifications do not find their new financial security undermined with a burdensome tax bill.
- Permit bankruptcy judges to modify mortgages on principal residences.

- Create an independent Consumer Financial Protection Agency, which can establish and monitor common-sense rules to ensure this type of crisis never happens again.
- Prohibit predatory lending, particularly unsustainable loans, yield spread premiums and prepayment penalties.

I. Background

A. Dimensions of the Foreclosure Crisis

With one in seven homeowners delinquent on their mortgage or already in foreclosure[2] and one in four mortgages underwater,[3] continued weakness in the housing sector will likely slow or derail economic recovery and hamper efforts to create jobs and reduce unemployment. According to industry analysts, the total number of foreclosures by the time this crisis abates could be anywhere between 8 and 13 million.[4] The Hope Now Alliance reports that approximately 2.1 million foreclosure sales have been completed between 2007 and November 2009.[5]

While some headlines say that housing prices are stabilizing, there is a still an enormous and growing overhang of foreclosure starts still working their way through the process. This "shadow inventory" is likely to threaten any kind of housing recovery as investors and homeowners wait for the other shoe to drop.[6] Sometimes foreclosure starts will not result in a foreclosure sale because a family will pay the arrearages and reinstate their mortgage, sell the home short, or give up the home in a deed-in-lieu of foreclosure transaction. Sometimes the family will move out because they think they are being foreclosed on, but the bank itself walks away from the foreclosure.[7] (On the other hand, the relative lack of foreclosure sales means that many homeowners can still be saved by an effective foreclosure prevention program.)

In terms of loan category, this crisis began in the subprime market and quickly spread to the Alt-A market. Delinquencies of subprime loans escalated quickly during 2007 and 2008. Although the rate of increase has begun to level off, about half of subprime loans originated during 2006 and 2007 are delinquent (see Figure 1). The picture looks similar for Alt-A loans, which are largely nontraditional loans aimed at people with better credit profiles than subprime borrowers but that contain risky features or minimal underwriting.

By the first quarter of 2009, approximately one-third of Alt-A loans originated in 2006 and 2007 were delinquent, and that rate continues to climb (see Figure 2).

Figure 1

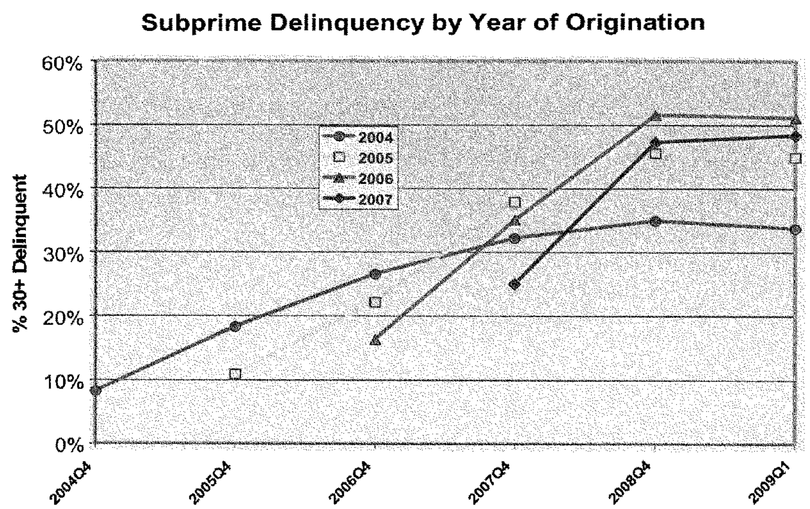
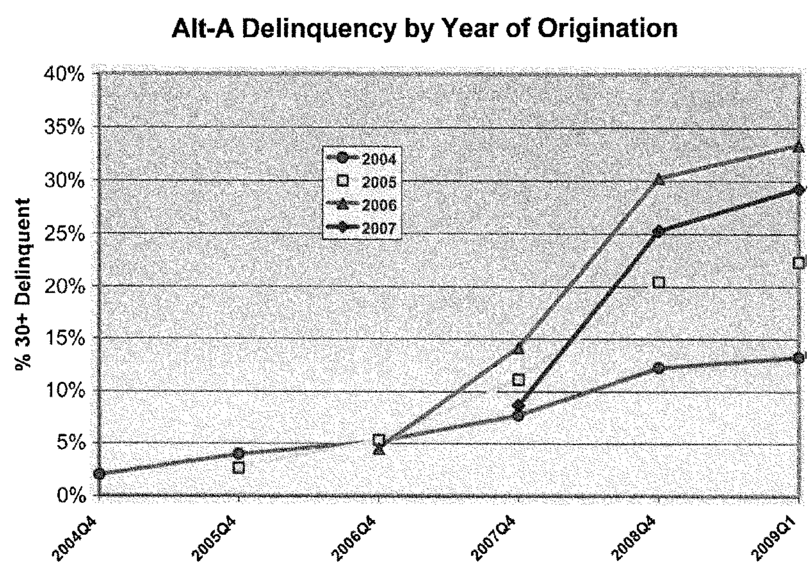


Figure 2



Source for Figures 1 and 2: *Characteristics and Performance of Nonprime Mortgages*, Government Accountability Office, (July 28, 2009)

According to a report by the OCC and OTS on the subset of mortgages serviced by the banks they regulate, during the third quarter of 2009, 16 percent of payment option ARMs (POARMs) were seriously delinquent and almost 12 percent were in the process of foreclosure.[8] Long-term projections offer little consolation: Examining the performance of privately secured loans made in 2006 and 2007, Fitch Ratings projects that more than 70 percent of POARM loans and between 40 and 54 percent of 30-year Alt-A loans will default.[9]

Although delinquencies among subprime and Alt-A loans have rightfully received much attention to date, the more traditional prime market has also been deeply affected. Over the last year, interest-only prime adjustable rate mortgages have become an increasing concern. For example, 60+ day delinquencies have doubled among such loans serving as collateral in private-label residential mortgage-backed securities and originated in 2007, growing from 9.1 percent to 18.6 percent.[10] For all prime loans, the average 60-day delinquency rate reported between 1979 and 2006 was 1.98 percent.[11]

B. Foreclosures impact the entire community through lost home value, increased demand for city servicers, and lost rental housing.

In addition to the costs to homeowners and communities, foreclosure "spillover" costs are massive. Tens of millions of households where the owners have paid their mortgages on time every month are suffering a decrease in their property values that amounts to hundreds of billions of dollars in lost wealth just because they are located near a property in foreclosure. Depending upon the geography and time period, the estimated impact of each foreclosure ranged from 0.6 percent to 1.6 percent in lost value to nearby homes. CRL estimates that the foreclosures projected to occur between 2009 and 2012 will result in $1.86 trillion in lost wealth, which represents an average loss of over $20,000 for each of the 91.5 million households affected.[12] These losses are on top of the overall loss in property value due to overall housing price declines.[13]

What's more, foreclosures cost states and localities enormous sums of money in lost tax revenue and increased costs for fire, police, and other services because vacant homes attract crime, arson, and squatters. As property values decline further, more foreclosures occur, which only drives values down still more. The Urban Institute estimates that a single foreclosure results in an average of $19,229 in direct costs to the local government.[14]

Finally, the crisis severely impacts tenants in rental housing. According to the National Low-Income Housing Coalition, a fifth of single-family (1-4 unit) properties in foreclosure were rental properties and as many as 40 percent of families affected by foreclosure are tenants.[15] While tenants now have some legal protection against immediate eviction,[16] most of them will ultimately be forced to leave their homes.[17] Furthermore, a great deal of housing stock is now owned by the banks rather than by new owners. Banks are not in the business of renting homes and are not well suited to carry out the duties required of a landlord.

Compounding the problem of renters losing homes to foreclosures is the impact that the crisis has on other sources of affordable housing. A policy brief from the Joint Center for Housing Studies reports that dramatic changes at Freddie Mac and Fannie Mae and coincident changes in credit markets have disrupted and increased the cost of funding for the continued development of multi-family (5+ units) properties, despite the fact that underwriting and performance has fared better in this segment than in single-family housing.[18] As a result, even though a general over-supply of single-family housing persists, the deficit in the long-term supply of affordable rental housing is at risk of increasing.[19]

C. Toxic loan products lie at the heart of the mortgage meltdown.

1. The housing crisis was precipitated by risky loans, not risky borrowers.

For years, many in the mortgage industry have evaded responsibility and fended off government efforts to intervene by blaming homeowners for mortgage failures, saying that lower-income borrowers were not ready for homeownership or not able to afford it.[20] Yet empirical research shows that the elevated risk of foreclosure was an inherent feature of the defective nonprime and exotic loan products that produced this crisis.

A recent analysis by Vertical Capital Solutions found that the least risky loans[21] significantly outperformed riskier mortgages during every year that was studied (2002-2008), regardless of the prevailing economic conditions and in every one of the top 25 MSAs.[22]

That study also confirmed that loan originators frequently steered customers to loans with higher interest rates than those for which they qualified and loans loaded with risky features. It found that 30 percent of the borrowers in the sample (which included all types of loans and borrowers) could have received a safer loan. In late 2007, the Wall Street Journal reported on a study that found 61 percent of subprime loans originated in 2006 "went to people with credit scores high enough to often qualify for conventional [i.e., prime] loans with far better terms."[23]

Even applicants who did not qualify for prime loans could have received sustainable, thirty-year, fixed-rate subprime loans for—at most—half to eight tenths of a percent above the initial rate on the risky ARM loans they were given.[24] Even more troubling, originators particularly targeted minority communities for abusive and equity-stripping subprime loans, according to complaints and affidavits from former loan officers alleging that this pattern was not random but was intentional and racially discriminatory.[25]

CRL's own research has demonstrated that common subprime loans with terms such as adjustable rate mortgages with steep built-in payment increases and lengthy and expensive prepayment penalties presented an elevated risk of foreclosure *even after accounting for differences in borrowers' credit scores.* This research also has shown how the risk entailed in these loans had been obscured by rapid increases in home prices that had enabled many borrowers to refinance or sell as needed. The latent risk in subprime lending has been confirmed by other researchers from the public and private sectors.[26]

A complementary 2008 study from the University of North Carolina at Chapel Hill supports the conclusion that risk was inherent in the structure of the loans themselves.[27] In this study, the authors found a cumulative default rate for recent borrowers with subprime loans to be more than three times that of comparable borrowers with lower-rate loans. Furthermore, the authors were able to identify the particular features of subprime loans that led to a greater default risk. Specifically, they found that adjustable interest rates, prepayment penalties, and mortgages sold by brokers were all associated with higher loan defaults. In fact, when risky features were layered into the same loan, the resulting risk of default for a subprime borrower was four to five times higher than for a comparable borrower with the lower-rate fixed-rate mortgage from a retail lender.

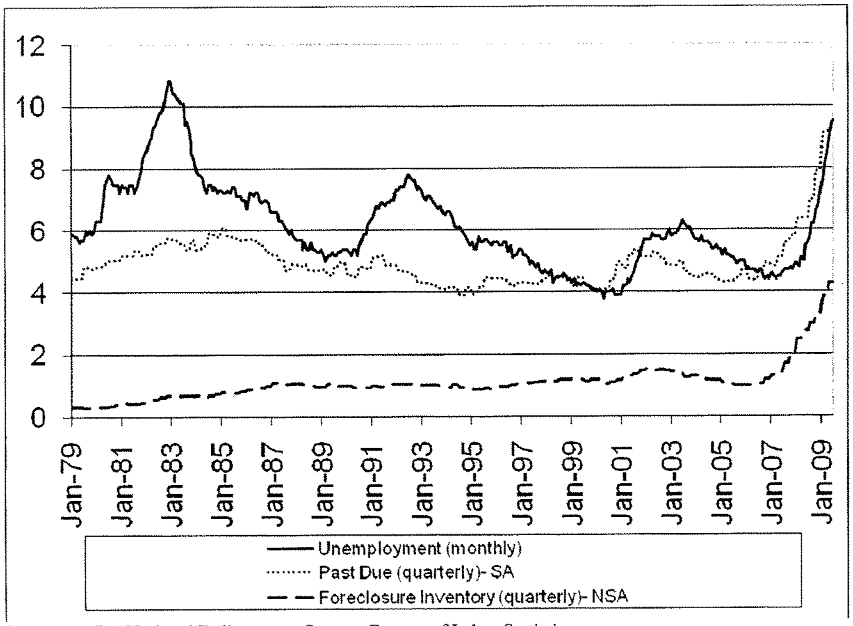
Finally, CRL conducted a more targeted study to focus on the cost differences between loans originated by independent mortgage brokers and those originated by retail lenders. In that study, we found that for subprime borrowers, broker-originated loans were consistently far more expensive than retail-originated loans, with additional interest payments ranging from $17,000 to $43,000 per $100,000 borrowed over the scheduled life of the loan.[28] Even in the first four years of a mortgage, a typical subprime borrower who used a broker paid $5,222 more than a borrower with similar creditworthiness who received a loan directly from a lender.[29]

2. While high unemployment makes a bad situation worse, unemployment in and of itself is not the reason for the soaring foreclosure rate.

In light of the high unemployment rates now prevailing across the country, it is useful to examine the relationship between job loss, mortgage delinquency, and foreclosures. An effort is underway to characterize the foreclosure crisis as an economic problem that should be solved through job creation strategies rather than by helping homeowners trapped in bad loans.[30]

This characterization is inaccurate at best. Certainly unemployment or underemployment contributes significantly to the economic crisis in which many families find themselves, hurting their ability to pay mortgages as well as other debts and living expenses. But to make a difference in the foreclosure rate, we must directly address failing mortgages.

The chart below shows that during previous periods of very high unemployment, foreclosure numbers remained essentially flat. Delinquency levels did rise somewhat, but they rose far less than they have risen during the recent crisis.[31]



Sources: MBA National Delinquency Survey, Bureau of Labor Statistics.

The reason why unemployment is causing more foreclosures now is the rampant negative equity problem. In past recessions, homeownership served as a buffer against income interruptions. Homeowners facing unemployment could sell their homes or tap into their home equity to tide them over. Today, selling homes is difficult to impossible in many markets, and even when sales take place, the seller sees no net proceeds from the sale. New research shows that the risk of default due to unemployment rises mainly in situations where homeowners are underwater on their mortgage.[32]

And why are so many homeowners underwater? It is because the glut of toxic mortgages first inflated the housing bubble and then led to the bursting of the bubble, followed by a self-reinforcing downward spiral of home prices.

II. The Treasury Department, Congress, and all stakeholders should work together to stop as many foreclosures as possible and break the cycle of housing price declines and continued economic weakness.

It is imperative that we continue to try to avoid as many foreclosures as possible, even as it becomes clear that this task is much more daunting than some may have imagined. Not only does it reflect badly on us as a society that we would permit so many people to lose their homes, but the enormous costs both to homeowners and to state and local governments will continue to drag the overall economy down.[33] With no easy solution to this problem, all stakeholders must work together to come up with innovative, workable strategies that can adapt as circumstances change.

A. The HAMP program must be improved and expanded to create more loan modifications that are more sustainable to benefit both homeowners and investors.

The HAMP program just celebrated its one year anniversary. [34] Initially projected to help three to four million borrowers, HAMP works by reducing homeowner payments to an affordable level, defined as a 31% debt-to-income ratio. So far, nearly a million homeowners have received a trial modification, yet only 116,000 have received a permanent loan modification.[35] The Treasury Department's own release, while claiming that HAMP is on track to meet its goal of modifying 3-4 million loans, also shows a chart indicating that only 1.7 million borrowers are even eligible for HAMP under its current guidelines.[36]

As problematic as HAMP's inadequate performance is the widespread negative experience that so many homeowners and their advocates have had with the program. The program's effectiveness has been hampered by lack of servicer capacity, a piece-by-piece rollout of complementary programs addressing second liens and short sales, inadequate compliance review, minimal public data availability, and – perhaps most disturbingly – widespread violation of HAMP guidelines by participating servicers.

To improve the HAMP program and extend its reach, we have outlined a number of recommendations below.

1. Stop foreclosures from proceeding while servicers evaluate eligibility for loan modifications or other non-foreclosure options.

Because servicers are not barred from proceeding on a parallel track toward foreclosure while a HAMP evaluation is pending, homeowners are receiving a confusing mix of communications from their lender, some of which tell the borrowers they are being considered for HAMP, but others of which warn of an impending foreclosure sale. This mixed message may well lie at the heart of several vexing problems, including the failure of some borrowers to send in all their documentation, the early redefault of many trial modifications, and the difficulty servicers have reaching certain borrowers.

In addition, the continuation of the foreclosure process often means that the servicers' lawyers bill thousands of dollars in attorneys fees that the homeowners are then expected to pay. Servicers either demand these payments upfront (an apparent violation of HAMP) or add the costs into the loan balance. In either event, these costs make it harder to provide an affordable loan modification.

Finally, although HAMP guidelines prohibit the actual foreclosure sale from taking place prior to a HAMP evaluation, some sales are taking place anyway because the foreclosure proceedings are handled by outside law firms and communications between servicers and foreclosure attorneys regarding HAMP are extremely minimal.[37]

To alleviate the confusion and prevent inadvertent foreclosures, servicers should be barred from proceeding with any portion of a foreclosure action prior to concluding their determination of whether a borrower qualifies for a HAMP modification. In other words, they should not be permitted to institute an action, and if an action has already been instituted, they should not be permitted to move forward at all, in cases where they can reach the homeowner or the homeowner has already requested an evaluation. Guidelines should be established to clarify when the servicer can continue with foreclosure proceedings if the homeowner is unreachable.

There have recently been reports in the media that Treasury is poised to take action on this issue.[38] We strongly support any such action.

2. Reduce principal balances on troubled loans to ensure that loan modifications are sustainable.

Millions of Americans now owe more on their mortgages than their homes are worth. While the overall percentage of American mortgages that are underwater is estimated to be 24 percent,[39] we can assume that percentage is far higher for homeowners who are having trouble affording their mortgage.[40] This problem was caused by the extreme housing price declines triggered by risky lending, and in some cases is exacerbated by negative amortization of the mortgage itself, such as what happens with POARMs.

Recent research has shown a strong correlation between negative equity and mortgage delinquency.[41] Homeowners who are underwater have no cushion to absorb financial difficulties. Furthermore, in some cases, homeowners who are unlikely to move into a positive equity position have fewer incentives to stay in the home or make the necessary ongoing investments in maintenance.[42] For these homeowners, even the reduction of monthly payments to an affordable level does not fully solve the problem. As a result, a homeowner's equity position has emerged as a key predictor of loan modification redefault, more so than unemployment or other factors.[43]

Negative equity is of particular concern in the case of POARMs. Because of the negative amortization feature and because their origination was concentrated in high-cost areas, many POARMS are very deeply underwater. (The vast majority of POARM borrowers chose to make the minimum payment permitted, at least while they were still paying on their loan, meaning most of these loans were negatively amortizing even as housing prices declined.) As noted previously, POARMs are failing at a stunning rate. Unfortunately, because of the way these loans were structured, the current design of HAMP is not able to help many POARM borrowers get their payments to an affordable level. Minimum payments on these loans are so low that it is hard to restructure the loans without raising the monthly payments. What's more, many POARMs already have a 40-year term, so a term extension cannot help either. The only way to help POARM borrowers in a sustainable way is to reduce principal.[44]

Many stakeholders believe that principal reduction is ultimately the only way to help the housing market reach equilibrium and begin to recover.[45] However, the OCC's Mortgage Metrics report indicates that even as loan modification activity ramps up, principal reduction is still relatively rare. One context in which it occurs is in portfolio loans with no second liens, which suggests that banks understand the usefulness of principal reduction but that for securitized loans, there is a conflict of interest. Often, that conflict is that the bank owns the second liens and investors refuse to agree to a writedown on the first lien unless the second lienholder does the same. Sometimes that conflict is between the servicer and the loan owner, because servicers derive the bulk of their income from the monthly servicing fee, which is set as a percentage of the outstanding loan principal balance in the pool, so they are less likely to write down principal even when it's in the best interest of the loan owner.[46]

In short, it is likely that the only way principal reduction is ever going to happen on a widespread basis is if it is required as part of HAMP or a program like HAMP, and if there are financial incentives for taking the writedown. (There are currently many investors with available cash who are ready and willing to buy loans and write down principal aggressively, yet it is almost impossible to get the servicer to initiate a principal reduction.)

Alternatively, loans could be removed from the control of the servicers in some way, such as by requiring servicers to pass accounts to a specialty servicer once the loan reaches a certain level of delinquency.[47] It also may be useful to consider policies that will make it easier for investors to buy loans out of pools, or consider whether the government should exercise its eminent domain authority to buy loans out of pools.[48]

So far, the only policy reason advanced for the Treasury's failure to incorporate a principal reduction into HAMP is the fear of moral hazard. Yet the actual costs of foreclosure along with the staggering associated costs[49] serve as a significant counterweight to this concern, just as the external costs outweighed the moral hazard of last year's bank bailout. But even beyond that, given the large percentage of underwater homeowners likely to default at some point,[50] moral hazard concerns should not prevent Treasury from moving forward on this front. HAMP has already built numerous safeguards into the application process, and it is would be possible to phase in the reduction over time as the homeowner continues to pay on the loan or create a shared equity component that would kick in upon sale of the home.

3. Make the details of the net present value (NPV) evaluation model widely available to homeowners and their advocates and improve the model.

A homeowner's qualification for a loan modification under HAMP is determined primarily through an analysis of the Net Present Value ("NPV") of a loan modification as compared to a foreclosure. The test measures whether the investor profits more from a loan modification or a foreclosure. The outcome of this analysis depends on inputs that include the homeowner's income, FICO score, current default status, debt-to-income ratio, and property valuation, plus factors relating to future value of the property and likely price at resale. Servicers that participate in HAMP are required to apply a specific NPV analysis model to all homeowners who are 60 days delinquent and those at imminent risk of default.

Homeowners and their advocates need access to the HAMP program's NPV model so that they can determine whether servicers have actually and accurately used the program in evaluating the homeowner's qualifications for a HAMP modification. Without access to the NPV analysis, homeowners are entirely reliant on the servicer's good faith.

Treasury has recently made some modest improvement on this front by requiring servicers to provide homeowners who are denied a HAMP modification based on the NPV calculation an opportunity to verify the information the servicer used in making the NPV calculations. This requirement should be strengthened to require servicers automatically to provide the NPV inputs and outputs to homeowners denied a HAMP modification, instead of requiring homeowners to make a request for the data.

Servicers should also be required to provide borrowers with the numerical results of the NPV calculations, rather than the mere result that modifying their loan would pass or fail the test, and they should allow borrowers to review the property valuation used in the NPV calculation, which is one of the inputs with the greatest effect on the results. Where the servicer says that the investor did not approve the modification, basic information including the investor or guarantor's name, identification of the controlling document, and a summary of efforts taken to secure investor approval for the proposed loan modification specifically and participation in HAMP generally should be provided in each relevant denial notice.

Finally, the HAMP NPV model needs to be improved. At present, it is a linear model in which the homeowner is put through a "waterfall"of ways to make a monthly payment more affordable: interest rate reduction first, term extension second, and principal forbearance (or, in rare instances, principal reduction) third. The model is only designed to permit servicers to discharge their duty to evaluate the NPV. It is not designed to maximize the chances of coming out with a positive NPV, nor is it designed to come up with the most sustainable loan modification. A more dynamic and richer model would do a better job of saving as many homes as possible in a way that makes financial sense to the loan owners.

4. **Share loan-level data with the public to ensure that everyone has access to the most complete source of data on foreclosure prevention publicly available.**

The Treasury Department is collecting a broad range of data from servicers participating in the HAMP program – more data than has ever been collected about the loan modification process by any other public entity. This data can shed great light into how the HAMP program is working: what types of borrowers are getting modifications and which are not, particularly for minority borrowers; the geography of modification activity; the types of modifications that are being provided; and the patterns of re-defaults that are occurring. However, the Treasury Department has severely limited the data it has released.

Treasury should release modification data at the individual loan level to the public as soon as possible in a raw, disaggregated form so that independent researchers and other interested parties can analyze the data themselves. This data is crucial for those working to develop more and better tools to fight foreclosures and prevent a repeat of this crisis. Public access to this data should be comparable to public access to the data collected under the provisions of the Home Mortgage Disclosure Act (HMDA) data. What's more, it is essential that this data be made available soon. While researchers appreciate the ease of working with high-quality, clean data, the urgency of the problem demands quick turnaround. If additional staffing is needed to scrub the data and turn it around quickly, we urge Treasury to assign more people to the task.

Finally, while this data must be purged of private information such as names and social security numbers, some have suggested that race and ethnicity data not be released on a servicer-by-servicer basis. Given the significant racial and ethnic inequities that have plagued the mortgage market, detailed demographic data for each servicer is of vital importance to all stakeholders.

5. Assist homeowners who have lost their jobs and do not have nine months of guaranteed unemployment income.

The latest HAMP data report shows that 57.4 percent of those seeking a HAMP modification have experienced a loss of income. The Treasury should add capacity to HAMP so that it can assist those unemployed homeowners who cannot demonstrate the nine months of unemployment benefits necessary to qualify for a HAMP modification, yet who would ultimately be successful long-term homeowners.

One idea is to create a low-cost loan fund similar to a program created by the state of Pennsylvania to provide loans to unemployed homeowners to help them pay their mortgage. Pennsylvania's Homeowners Emergency Mortgage Assistance Program (HEMAP) has provided loans to over 43,000 homeowners since 1984 at a cost to the state of $236 million. Assisted homeowners have repaid $246 million to date, which works out to a $10 million profit for the state over a 25-year period of helping families keep their houses. To be eligible for HEMAP, homeowners must be in default through no fault of their own and have a reasonable prospect of resuming their mortgage payments within 36 months. A recent paper from the Boston Federal Reserve also proposes helping homeowners who had a "significant income disruption" through bridge loans of up to 24 months.[51] The White House recently announced an initiative to provide five states with funding that could be used toward a program of this nature, but it is needed nationwide.

The Treasury Department has also indicated that it is considering a targeted forbearance program for people who have lost their jobs, but it has not yet released any details of such a program. Such a program could also provide relief to the millions of people facing a loss of income, as long as they do not continue to accrue additional fees or charges during the forbearance period.

6. Transfer servicing duties to companies that don't have conflicts of interest.

Since early 2007, mortgage loan servicers have been promising to help homeowners in trouble.[52] The Bush Administration believed that servicers would voluntarily provide this assistance because in so many cases, foreclosure made no economic sense for the lender or loan owner. Unfortunately, financial incentives for servicers often encourage outcomes that are not advantageous either for the loan owner or for the homeowner.[53] What's more, like other players in the financial services industry, much of their income comes from fee-generating tricks and traps for consumers.

It is fully understood now that helping homeowners avoid foreclosure is frequently in conflict with the financial interest of servicers. Thus, the HAMP program provides servicers with financial incentives for placing homeowners into permanent loan modifications if the benefit (net present value) of the modification is higher than that of foreclosure. Unfortunately, so far, these financial incentives have not proven sufficient for servicers to process loan modification requests in a timely, effective manner.

Moreover, most observers agree that most servicers in their current form lack the capacity to handle a foreclosure crisis of the size and scope we are seeing today.[54] Servicers have had to do a great deal of retooling. Their employees are no longer simply collection agents, but are serving essentially as both loan underwriters and housing counselors. In the early months of the program, a great deal of latitude was given to servicers for their ramp-up time, but these capacity issues continue to persist. Homeowners still have terrible trouble reaching their servicers, and when they do, they often encounter employees who know little about HAMP, who try to steer them other products or persuade them to leave their homes, and they are unable to get any firm decisions made in a timely manner.

The perceived shortcomings of the mainstream servicing industry has led to significant growth in the number and size of so-called specialty servicers – businesses that specialize in intensive, "high-touch" approaches to working with homeowners in trouble. These specialized servicers are often able to reach homeowners at many times the rate of a mainstream servicer and in many cases are more skilled in dealing with families in crisis. Recently, Fannie Mae and Freddie Mac began to require their servicers who are not producing sufficient results to use specialty servicers for the delinquent accounts.

We think it would be useful to explore how and under what circumstances the Treasury Department could require HAMP-participating servicers to turn their accounts over to special servicers working for the government when the account becomes 60 days delinquent. However, it would be of the utmost importance to ensure that the specialty servicers are carefully monitored to ensure that a more aggressive approach does not violate consumer rights with respect to debt collection.

7. Provide an independent, formal appeals process for homeowners who believe their HAMP application was not handled correctly.

As of this past January, servicers are now required to notify homeowners who are rejected for a HAMP modification promptly and with an explanation for why they have been rejected. This is a long overdue improvement, but homeowners who have been denied a loan modification or who are being foreclosed on in error still need access to an independent appeals process. Freddie Mac's compliance program aims to ensure that servicers abide by the program's guidelines, but it is not a process accessible by an individual homeowner. Treasury is allowing servicers to offer the HOPE hotline as a dispute resolution mechanism in their rejection letter to homeowners, yet as described, the HOPE hotline can only contact the servicer; it does not have any authority to enforce or monitor compliance with program requirements. Homeowners need access to an independent escalation process in addition to any internal review process they can access within the servicer.

8. Permit homeowners who experience additional hardships to be eligible for additional HAMP modifications.

Even after a homeowner is paying the monthly payments due under a HAMP loan modification, life events may still occur that would once again disrupt these payments, such as job loss, disability, or the death of a spouse. These subsequent, unpredictable events, outside the control of the homeowner, should not result in foreclosure if a further loan modification would save investors money and preserve homeownership. Foreclosing on homes where homeowners have suffered an involuntary drop in income without evaluating the feasibility of a further HAMP modification is punitive to homeowners already suffering a loss and does not serve the interests of investors. Some servicers provide some modifications upon redefault as part of their loss mitigation program; this approach should be standard and should include continued eligibility for HAMP modifications rather than only specific servicer or investor programs.

9. Require that servicers let homeowners in bankruptcy use the HAMP program.

As a result of the HAMP guidelines providing servicer discretion on whether to provide homeowners in bankruptcy access to loan modifications under the program, homeowners generally are being denied such loan modifications. The HAMP guidelines should explicitly provide that servicers must consider a homeowner seeking a modification for HAMP even if the homeowner is a debtor in a pending bankruptcy proceeding. We believe this change may also be forthcoming from Treasury, and we encourage it to be made soon.

B. In addition, Congressional action in several other areas would provide significant benefit in mitigating the crisis.

1. Pass legislation mandating loss mitigation prior to foreclosure.

Even if the HAMP program is changed to prevent the filing of foreclosure prior to evaluation, Congress should make this requirement into a legal standard with a private right of action. The fact is, while HAMP servicers do have a contract with the Treasury Department, the servicers and the Treasury are the only parties to those contracts. Even if a servicer breaches the contract, the Treasury's primary remedy is to withhold incentive payments, which by and large are not yet emerging as a strong enough incentive to change servicer behavior. It is important to give homeowners a clear right to evaluation prior to foreclosure, and for many servicers, only a legal requirement will cause them to build the systemic safeguards necessary to ensure that such evaluations occur.

In the Senate, a bill introduced by Senator Jack Reed (S. 1431) would address this problem. There is a similar legislation that was introduced in the House of Representatives last summer by Representative Maxine Waters (HR 3451), but the Waters bill needs to be extended to cover existing loans.

2. Ensure that homeowners receiving mortgage debt forgiveness or modifications do not find their new financial security undermined with a burdensome tax bill.

Even principal forgiveness or the most carefully structured loan modifications can be seriously undermined if struggling homeowners must treat the forgiven mortgage debt as taxable income. Solving this tax problem has been flagged as a priority by the IRS's Office of the National Taxpayer Advocate.[55]

To describe the tax problem in brief, when lenders forgive any mortgage debt, whether in the context of a short sale, a deed-in-lieu-of-foreclosure, foreclosure, or principal reduction in a loan modification, that amount of forgiven debt is considered to be income to the homeowner and tax must therefore be paid on it unless the homeowner qualifies for some kind of exclusion to that tax. In 2007, Congress passed the Mortgage Forgiveness Debt Relief Act of 2007 to prevent adverse tax consequences to homeowners in trouble. After passage of this bill, most policymakers considered the problem to have been solved.

Unfortunately, because of the way that legislation was written, many homeowners still owe tax despite the Mortgage Forgiveness Debt Relief Act. That legislation defined "qualified mortgage debt" to include only that debt that was used to purchase a home or make major home improvements. In calculating the tax, any unqualified debt is first subtracted in its entirety from the amount of forgiven debt (not on a pro rate basis). In many cases, the amount of unqualified debt will equal or exceed the amount of debt forgiven, leaving the homeowner to pay tax on the entire forgiven debt – and even in those cases where the amount forgiven exceeds the amount of unqualified debt, the homeowner will still owe a large tax bill.

Expanding the definition will make it easier for everyone, even those homeowners already fully covered by the Mortgage Forgiveness Debt Relief Act, to take advantage of this exclusion. To take advantage of the mortgage debt exclusion, a homeowner now has to file a long-form 1040, along with a Form 982, a very complicated and difficult form. Unfortunately, most lower and middle income taxpayers are not accustomed to using these forms, and taxpayers filing long-form 1040s are not eligible to use the various tax clinics offered by the IRS and others for lower-income taxpayers. The National Taxpayer Advocate reports that last tax year, less than one percent of electronic filers eligible for the exclusion claimed it.[56] If the definition of qualified mortgage debt is expanded as described above, the IRS can take steps through its tax forms to simplify the process for taxpayers claiming the mortgage debt exclusion.

3. Permit judicial modifications of mortgages on principal residences.

Judicial modification of loans is available for owners of commercial real estate and yachts, as well as subprime lenders like New Century or investment banks like Lehman Bros., but is denied to families whose most important asset is the home they live in. In fact, current law makes a mortgage on a primary residence the only debt that bankruptcy courts are not permitted to modify in chapter 13 payment plans.

Permitting judges to modify mortgages on principal residences, which carries *zero cost to the U.S. taxpayer*, has been estimated to potentially help more than a million families stuck in bad loans keep their homes.[57] It would also help maintain property values for families who live near homes at risk of foreclosure. It would address the "moral hazard" objections to other modification proposals current under consideration, as the relief it provides would come at a substantial cost to the homeowner—including marring the homeowner's credit report for years to come and subjecting the homeowner's personal finances to strict court scrutiny. And it would complement the various programs that rely on voluntary loan modifications or servicer agreement to refinance for less than the full outstanding loan balance.

Proposals to lift this ban have set strict limits on how it must be done. Such proposals would require that interest rates be set at commercially reasonable, market rates; that the loan term not exceed 40 years; and that the principal balance not be reduced below the value of the property. And if the servicer agrees to a sustainable modification, the borrower will not qualify for bankruptcy relief because they will fail the eligibility means test. As Lewis Ranieri, founder of Hyperion Equity Funds and generally considered "the father of the securitized mortgage market,"[58] has recently noted, such relief is the only way to break through the problem posed by second mortgages.[59]

4. Create an independent Consumer Financial Protection Agency.

In light of our research, we believe there are several important additional steps Congress should take to prevent reckless lending that could once again fundamentally disrupt our economy. Most importantly is the creation of a single agency to safeguard consumer interests, such as the Consumer Financial Protection Agency embodied in legislation that passed the House of Representatives last month.[60]

The Consumer Financial Protection Agency would gather in one place the consumer protection authorities currently scattered across several different agencies, and would create a federal agency whose sole mission is consumer protection. The design of the Agency is appropriately balanced to enhance safety and soundness and allow appropriate freedom and flexibility for innovation while providing effective consumer protection. Highlights include the following:

- The Agency would have essential rule-making authority to prevent abusive, unfair, deceptive and harmful acts and practices and to ensure fair and equal access to products and services that promote financial stability and asset-building on a market-wide basis.

- The Agency would have strong enforcement tools, along with concurrent authority for the States to enforce the rules against violators in their jurisdictions.

- The Agency would preserve the ability of states to act to prevent future abuses so that States would not be hamstrung in their efforts to react to local conditions as they arise.

- The Agency would have access to the real-world, real-time information that will best enable it to make evidence-based decisions efficiently.

In other areas of the economy, from automobiles and toys to food and pharmaceuticals, America's consumer markets have been distinguished by standards of fairness, safety and transparency. Financial products should not be the exception – particularly since we have demonstrated that it is the subprime mortgage products themselves that raised the risk of foreclosure. A strong, independent consumer protection agency will keep markets free of abusive financial products and conflicts of interest. Dedicating a single agency to this mission will restore consumer confidence, stabilize the markets and put us back on the road to economic growth.

5. Prohibit predatory lending, particularly unsustainable loans, yield spread premiums and prepayment penalties.

It is also imperative to pass legislation that would require sensible and sound underwriting practices and prevent abusive loan practices that contributed to reckless and unaffordable home mortgages. For this reason, we urge the passage of H.R. 1728. While there are some ways in which this bill should be strengthened, it represents a critical step forward in requiring mortgage originators to consider the consumer's ability to repay the loan and to refinance mortgages only when the homeowner receives a net tangible benefit from the transaction.

Most important, H.R. 1728 establishes bright line standards that will result in safer loans and in more certainty for originators of those loans. The bill's safe harbor construct would grant preferred treatment to loans made without risky features such as prepayment penalties, excessive points and fees, inadequate underwriting, and negative amortization. It would also ban yield spread premiums – which, as we explained earlier, were key drivers of the crisis – and it would permit states to continue to set higher standards if necessary to protect their own residents.

Similarly, we strongly support the Federal Reserve Board's proposal to ban yield spread premiums for all loan originators and prohibit steering consumers to unnecessarily expensive loans. The Board's proposed rule represents an important step forward in the recognition that disclosure alone is not enough to protect consumers and that certain practices themselves give rise to unfairness and unnecessary risk.

Many industry interests object to any rules governing lending, threatening that they won't make loans if the rules are too strong from their perspective. Yet it is the *absence* of substantive and effective regulation that has managed to lock down the flow of credit beyond anyone's wildest dreams. For years, mortgage bankers told Congress that their subprime and exotic mortgages were not dangerous and regulators not only turned a blind eye, but aggressively preempted state laws that sought to rein in some of the worst subprime lending.[61] Then, after the mortgages started to go bad, lenders advised that the damage would be easily contained.[62] As the global economy lies battered today with credit markets flagging, any new request to operate without basic rules of the road is more than indefensible; it's appalling.

Conclusion

Today's foreclosure crisis is the worst housing downturn since the Great Depression. The stakes are high. Not only have millions of families lost their homes, but the crisis is responsible for close to two trillion dollars in additional lost wealth, cuts in municipal services, shortages of affordable housing, and reduction of homeowner disposable income. As foreclosures mount, these related costs will only grow worse.

Even under a best-case scenario, the current crisis will continue and fester if interventions remain on the current narrow course. To make a real difference in preventing foreclosures and reducing associated losses, we need a multi-pronged strategy that strengthens the way current foreclosure prevention programs are implemented and also invests in new approaches. We also need better regulatory protection through a dedicated consumer protection agency.

As policymakers take actions to address the immediate crisis, it is our hope that they also will be mindful of policy failures that enabled the situation. Economic cycles and housing bubbles may always be with us, but the experience of recent years vividly shows the value of sensible lending rules and basic consumer protections, even during economic booms. It is critically important that policymakers translate the lessons of this crisis into sensible rules to prevent another disaster in the future.

We stand ready to assist the Committee on Oversight and Government Reform in your investigation of the foreclosure crisis, and we look forward to your findings on these matters of utmost importance to America.

---

[1] *See, e.g.*, "Housing Starts and Vacant Units: No 'V'-Shaped Recovery," Calculated Risk (Nov. 15, 2009), *available at* http://www.calculatedriskblog.com/2009/11/housing-starts-and-vacant-units-no-v.html; Dean Baker, testimony before the Congressional Oversight Panel, "The Failures of TARP" (Nov. 19, 2009).

[2] MBA National Delinquency Survey, Feb. 19, 2010 [hereinafter "MBA National Delinquency Survey"]. The combined percentage of loans in foreclosure or at least one payment past due was over 15 percent on a non-seasonally adjusted basis, the highest ever recorded in the MBA delinquency survey.

[3] First American Core Logic Negative Equity Report Q42009, *available at* http://www.loanperformance.com/infocenter/library/Q4_2009_Negative_Equity_Final.pdf

[4] Rod Dubitsky, Larry Yang, Stevan Stevanovic and Thomas Suehr, *Foreclosure Update: over 8 million foreclosures expected,* Credit Suisse (Dec. 4, 2008) (projecting 10 million foreclosures by 2012 depending on current unemployment rates); Jan Hatzius and Michael A. Marschoun, *Home Prices and Credit Losses: Projections and Policy Options*, Goldman Sachs Global Economics Paper (Jan. 13, 2009) (projecting 13 million foreclosures by 2014) at 16.

[5] Hope Now Phase I National Data (Nov. 2009), *available at* https://www.hopenow.com/industry-data/Summary%20Charts%20Nov%202009%2020100104%20v2.pdf.

[6] Standard and Poor's, "The Shadow Inventory of Troubled Mortgages Could Undo U.S. Housing Price Gains," Feb. 10, 2010. The shadow inventory problem is one reason that CRL does not agree with the claims by the Mortgage Bankers Association that the 17 basis point decline in the seasonally-adjusted delinquency rate marks the beginning of the end of the crisis. *See* Mortgage Bankers Association Press Release on the latest MBA National Delinquency Survey, Feb. 19, 2010, *available at* http://www.mbaa.org/NewsandMedia/PressCenter/71891.htm.

[7] Susan Saulny, *Banks Starting to Walk Away on Foreclosures*, New York Times (March 29, 2009), *available at* http://www.nytimes.com/2009/03/30/us/30walkaway.html.

[8] OCC and OTS Mortgage Metrics Report (Q3 2009), *available at* http://files.ots.treas.gov/482114.pdf

[9] "Fitch RMBS Loss Metrics," Fitch Ratings, Residential Mortgage Backed Securities Group (Jan. 2010).

[10] A. Frank, A. Rothschild, Y. Shen, "Monthly Review of Prime and Near-Prime Non-Agency," RMBS Observer, Global Markets Research, Deutsche Bank Securities, Inc. (Jan. 4, 2010).

[11] MBA National Delinquency Survey, *supra* note 2.

[12] For methodology, *see* Center for Responsible Lending, "Soaring Spillover: Accelerating Foreclosures to Cost Neighbors $502 Billion in 2009 Alone; 69.5 Million Homes Lose $7,200 on Average; Over Next Four Years, 91.5 Million Families to Lose $1.9 Trillion in Home Value; $20,300 on Average" (May 2009), *available at* http://www.responsiblelending.org/mortgage-lending/research-analysis/soaring-spillover-3-09.pdf.

[13] Center for Responsible Lending, *Continued Decay and Shaky Repairs: The State of Subprime Loans Today*, (Jan. 8, 2009), *available at* http://www.responsiblelending.org/mortgage-lending/research-analysis/continued_decay_and_shaky_repairs.pdf.

[14] G. Thomas Kingsley, Robin Smith, & David Price, *The Impact of Foreclosures on Families and Communities*, The Urban Institute (May 2009), at 21, Fig. 3.

[15] D. Pelletiere, "Renters in Foreclosure: Defining the Problem, Identifying Solutions," National Low-Income Housing Coalition (Jan. 2010), *available at* http://dsl-router.nlihc.org/doc/renters-in-foreclosure.pdf.

[16] The "Helping Families Save Their Home Act of 2000," signed into law by President Obama in May 2009, provided that month-to-month tenants must receive 90 days' notice before having to move out and that tenants with leases may stay until the end of their lease (unless the owner plans to occupy the property, in which case tenants still must receive 90 days notice).

[17] Also, many tenants are not aware of their right to stay in their homes, and when they receive a notice from a bank lawyer naming their landlord and seeking eviction, they leave regardless of their legal rights. *See, e.g.,* Testimony of Deborah Cuevas Hill, The Legal Aid Society of the District of Columbia, before the Committee on Public Services and Consumer Affairs, Council of the District of Columbia (May 28, 2009), available at http://www.legalaiddc.org/issues/documents/TestimonyreTOPALegilsation.pdf.

[18] "Meeting Multifamily Finance Housing Needs During and After the Crisis: A Policy Brief," Joint Center for Housing Studies, Harvard University (Jan. 2009), *available at* http://www.jchs.harvard.edu/publications/finance/multifamily_housing_finance_needs.pdf.

[19] *Id.*

[20] It is popular, although incorrect, to blame the Community Reinvestment Act (CRA) and Fannie Mae and Freddie Mac (the GSEs) for the foreclosure crisis. For a complete discussion of why CRA and the GSEs did not cause the crisis, *see* Testimony of Eric Stein, Center for Responsible Lending, before the Senate Committee on Banking (Oct. 16, 2008), *available at* http://www.responsiblelending.org/mortgage-lending/policy-legislation/congress/senate-testimony-10-16-08-hearing-stein-final.pdf.

[21] These were loans with debt-to-income ratios lower than 41%, 7/1 ARMs or more or fixed rate, a term of 30 years or less, no balloon payment, no interest-only or negative amortization, full documentation, and either an LTV under 80% or, if LTV above 80%, carried mortgage insurance.

[22] Vertical Capital Solutions, Historical Performance of Qualified vs. Non-Qualified Mortgage Loans, February 2010 (on file with CRL) [hereinafter "Historical Performance"].

[23] Rick Brooks and Ruth Simon, *Subprime Debacle Traps Even Very Credit-Worthy As Housing Boomed, Industry Pushed Loans To a Broader Market*, Wall Street Journal at A1 (Dec. 3, 2007).

[24] Letter from Coalition for Fair & Affordable Lending to Ben S. Bernanke, Sheila C. Bair, John C. Dugan, John M. Reich, JoAnn Johnson, and Neil Milner (Jan. 25, 2007) at 3.

[25] Julie Bykowicz, *City can Proceed with Wells Fargo Lawsuit*, Baltimore Sun (July 3, 2009) *available at* http://www.baltimoresun.com/news/maryland/baltimore-city/bal-md.foreclosure03jul03,0,5953843.story..

[26] *See e.g.,* Yuliya Demyanyk, "Ten Myths About Subprime Mortgages," Economic Commentary, Federal Reserve Bank of Cleveland (May 2009) *available at* http://www.clevelandfed.org/research/commentary/2009/0509.pdf; Karen Weaver, "The Sub-Prime Mortgage Crisis: A Synopsis" Deutsch Bank (2008) *available at* http://www.globalsecuritisation.com/08_GBP/GBP_GSSF08_022_031_DB_US_SubPrm.pdf (concluding that subprime mortgages "could only perform in an environment of continued easy credit and rising home prices).

[27] Lei Ding, Roberto G. Quercia, Janneke Ratcliff, and Wei Li, "Risky Borrowers or Risky Mortgages: Disaggregating Effects Using Propensity Score Models" Center for Community Capital, University of North Carolina at Chapel Hill (Sept. 13, 2008) *available at* http://www.ccc.unc.edu/abstracts/091308_Risky.php.

[28] Center for Responsible Lending, *Steered Wrong: Brokers, Borrowers and Subprime Loans* (April 8, 2008), *available at* http://www.responsiblelending.org/mortgage-lending/research-analysis/steered-wrong-brokers-borrowers-and-subprime-loans.pdf.

[29] *Id.*

[30] For example, a portion of this chart (the lines showing unemployment and mortgage delinquency) was circulated by the Mortgage Bankers Association as an advocacy tool to promote the notion that unemployment rather than bad practices was responsible for the current foreclosure crisis. However, once foreclosure data is added to the chart, it is quite clear that the same relationship did not exist during previous downturns. *See also* Historical Performance, *supra* note 23.

[31] Similarly, the "cure" rate – the rate at which homeowners who are behind on their mortgages catch up rather than default – has plummeted to an astonishing 6.6 percent. *See* Fitch Ratings, Delinquency Cure Rates Worsening for U.S. Prime RMBS (Aug. 24, 2009).

[32] Laurie Goodman, Roger Ashworth, Brian Landy, Ke Yin, Negative Equity Trumps Unemployment in Predicting Defaults, Amherst Mortgage Insight, Amherst Securities Group (Nov. 23, 2009) [hereinafter "Amherst Mortgage Insight"].

[33] It is worth noting that these external costs are not accounted for by the HAMP program's net present value analysis.

[34] We are not addressing HUD's Hope for Homeowners (H4H) program, which has had almost no participation so far. In addition, the refinancing portion of the Home Affordable initiative has also had much more limited reach than had been anticipated, with only 190,000 or so loans modified as of December 2009. http://fhfa.gov/webfiles/15389/Foreclosure_Prev_release_1_29_10.pdf.

[35] HAMP January loan modification report, released Feb. 17, 2010, *available at* http://www.financialstability.gov/docs/press/January%20Report%20FINAL%2002%2016%2010.pdf.

[36] *Id.*

[37] One Pennsylvania bankruptcy judge has recently provided troubling details of how "communications" between servicers and their outside law firms take place almost entirely through automated systems without any human interaction. *In re Taylor*, 407 B.R. 618 (E.D. Pa. 2009). That judge concluded, "The thoughtless mechanical employment of computer-driven models and communications to inexpensively traverse the path to foreclosure offends the integrity of our American bankruptcy system."

[38] "Treasury Considers Changes to HAMP," American Banker, Feb. 23, 2010.

[39] First American Core Logic, *supra* note 3.

[40] Homeowners with equity in their homes are generally able to refinance into lower rate loans and are much less likely to get into a situation where they require assistance.

[41] Amherst Mortgage Insight, *supra* note 33.

[42] Although many decry the phenomenon of "walkaways," when people voluntarily default on their mortgages, there are actually far fewer such walkaways than economic theory might predict. *See, e.g.*,

Roger Lowenstein, *Walk Away from your Mortgage!*, New York Times (Jan. 10, 2010) (noting that it would be economically rational for more people to walk away from their mortgages). However, it is clear that at some level, the disincentive of being underwater will have an impact on the homeowner's success in continuing with the mortgage.

43 Andrew Haughwout, Ebiere Okah, and Joseph Tracy, *Second Chances: Subprime Mortgage Modification and Re-Default*, Federal Reserve Bank of New York Staff Report (Dec. 2009).

44 Servicers with large POARM books are moving many of these homeowners into 10-year interest-only loans, which is helpful in the short term but is ultimately only postponing the day of reckoning if the housing market does not recover rapidly, which is not expected.

45 *See, e.g.*, Testimony of Laurie Goodman before the House Financial Services Committee (Dec. 8, 2009), *available at* http://www.house.gov/apps/list/hearing/financialsvcs_dem/goodman.pdf; Shawn Tully, *Lewie Ranieri Wants to Fix the Mortgage Mess*, Fortune Magazine (Dec. 9, 2009); "Analysis of Mortgage Servicing Performance, Data Report No. 4, Jan. 2010, State Foreclosure Prevention Working Group, at 3.

46 For a thorough discussion of the many conflicting incentives prevailing in the servicing industry, *see* Diane E. Thompson, *Why Servicers Foreclose When They Should Modify and Other Puzzles of Servicer Behavior*, National Consumer Law Center (Oct. 2009), *available at* http://www.nclc.org/issues/mortgage_servicing/content/Servicer-Report1009.pdf

47 *See* Testimony of Julia Gordon before the House Committee on Financial Services (Dec. 8, 2009), available at http://www.responsiblelending.org/mortgage-lending/policy-legislation/congress/Gordon-Loan-Modification-Testimony-12-8-09-final.pdf.

48 *See* Howell Jackson, *Build a Better Bailout*, The Christian Science Monitor (Sept. 25, 2008), available at http://www.csmonitor.com/Commentary/Opinion/2008/0925/p09s02-coop.html; *see also* Andrew Jakabovics, *Sustainable Mortgage Modifications: Setting Clear Benchmarks to Measure Progress and Identifying Possible Next Steps to Contain the Foreclosure Crisis*, Center for American Progress (March 2009), available at http://www.americanprogress.org/issues/2009/03/pdf/mortgage_modifications.pdf.

49 See discussion of spillover costs in Section IB.

50 Even beyond the many more homeowners likely to default due to financial hardship, it is also likely that many more will default "strategically" than are doing so right now. First American Core Logic notes that above 125% LTV, owner-occupants begin to default at rates equal to investors. See *supra* note 3.

51 Chris Foote, Jeff Fuhrer, Eileen Mauskopf, and Paul Willen, *A Proposal to Help Distressed Homeowners: A Government Payment-Sharing Plan*, Federal Reserve Bank of Boston Public Policy Briefs (No. 09-1) (July 9, 2009).

52 Homeownership Preservation Summit Statement of Principles (May 2, 2007), http://dodd.senate.gov/index.php?q=node/3870/print (the Summit resulted in a statement of Homeownership Preservation Principles announced by Chairman Dodd, and endorsed by the Mortgage Bankers Association, CitiGroup, Chase, Litton, HSBC, Countrywide, Wells, AFSA, Option One, Freddie Mac, and Fannie Mae).

53 Diane E. Thompson, *Why Servicers Foreclose When They Should Modify and Other Puzzles of Servicer Behavior*, *supra* note 47.

54 *See, e.g.*, Chris Arnold, *Are There More Foreclosures Than Necessary?* National Public Radio Planet Money (May 15, 2009). http://www.npr.org/templates/story/story.php?storyId=104177396

55 National Taxpayer Advocate, *2008 Annual Report to Congress*, at 341, 391-96.

[56] *Id.* at 394.

[57] Mark Zandi, "Homeownership Vesting Plan," Moody's Economy.com (Dec. 2008), *available at* http://www.dismal.com/mark-zandi/documents/Homeownership_Vesting_Plan.pdf.

[58] *Lewis Ranieri to deliver Dunlop Lecture on Oct. 1*, Harvard University Gazette, Sept. 25, 2008, *available at* http://news.harvard.edu/gazette/story/2008/09/lewis-ranieri-to-deliver-dunlop-lecture-on-oct-1/.

[59] Lewis S. Ranieri, "Revolution in Mortgage Finance," the 9th annual John T. Dunlop Lecture at Harvard Graduate School of Design, Oct. 1, 2008, *available at* http://www.jchs.harvard.edu/events/dunlop_lecture_ranieri_2008.mov (last visited Feb. 24, 2010).

[60] Wall Street Reform and Consumer Protection Act of 2009 (H.R. 4173), which passed the House of Representatives on December 11, 2009.

[61] *See* Testimony of Kathleen Keest before the House of Representatives Committee on Financial Services, June 24, 2009, *available at* http://www.responsiblelending.org/mortgage-lending/policy-legislation/congress/regulatory_restructuring_testimony_keest_06242009.pdf.

[62] For example, in September 2006, Robert Broeksmit of the Mortgage Bankers Association told Congress, "Our simple message is that the mortgage market works and the data demonstrate that fact," and "I strongly believe that the market's success in making these 'nontraditional' products available is a positive development, not cause for alarm." Statement of Robert D. Broeksmit, Chairman, Residential Board of Governors, Mortgage Bankers Association, Before a Joint Hearing of the Subcommittee on Housing and Transportation and the Subcommittee on Economic Policy, U.S. Senate Committee on Banking, Housing and Urban Affairs, Calculated Risk: Assessing Non-Traditional Mortgage Products, *available at* http://banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=54647cfe-de8f-4eb8-8952-452fb8754862. In May 2007, John Robbins of the Mortgage Bankers Association said, "As we can clearly see, this is not a macro-economic event. No seismic financial occurrence is about to overwhelm the U.S. economy. And we're not the only ones who think so." John M. Robbins, CMB, Chairman of the Mortgage Bankers Association at the National Press Club's Newsmakers Lunch – Washington, D.C. , *available at* http://www.mortgagebankers.org/files/News/InternalResource/54451_NewsRelease.doc.

Mr. KUCINICH. Thank you for your testimony.

The Chair recognizes Mr. Faris. You may proceed.

STATEMENT OF RONALD M. FARIS

Mr. FARIS. Thank you Chairman Kucinich, Ranking Member Jordan and distinguished members of the subcommittee for the opportunity to participate in today's hearing. My name is Ronald Faris, and I am the President of Ocwen Financial Corp. At Ocwen, we share your sense of urgency to find a lasting solution to our Nation's daunting foreclosure crisis, a crisis that threatens millions of families with the loss of their home.

Ocwen is not a loan originator. We did not make the bad mortgages that are causing the problems. But as a loan servicer, we are doing everything we can to fix them. We were the first in the industry to adopt a comprehensive loan modification program, one that provides homeowners in distress lower mortgage payments that are both affordable and sustainable and result in greater cashflow for investors than from foreclosure. We are proud to have saved well over 100,000 homes from foreclosure since the onset of the mortgage crisis through loan modifications.

Ocwen supports the administration's HAMP program. We believe it is a well designed response to the mortgage crisis. Even so, almost a year into HAMP, too many homeowners facing foreclosure are having difficulty getting their loans modified. In our view this is due mainly to a lack of sufficient capacity and expertise in the industry to handle the volume. Ocwen has invested over $100 million in R&D to build our own loan servicing technology. Our platform is both scaleable for high volumes and incorporates behavioral science research for effective customer communication.

Using technology, we have been able to convert trial modifications to permanent modifications at a rate that is 10 to 20 times higher than the big banks in the program. But the key metric for long-term success is the redefault rate. According to a recent industry report 3-month redefault rates on HAMP mods have ranged from 18 to 33 percent. Through our technology advantage we have kept our redefault rates to below 5 percent.

As part of Ocwen's continuing commitment to make HAMP a success we would like to share with the subcommittee some of our recommendations for program enhancements. First, the required debt-to-income ratio should be lower to below 31 percent. One out of every four HAMP applications is rejected for failing to meet this standard. Usually these are families struggling with higher household expenses for food, clothing and education. HAMP should instead use a flexible residual income approach to determine a payment that the homeowner can actually afford. Alternatively, there should be either an across-the-board DTI of 28 percent or a sliding scale DTI that varies based on the number of dependents on the borrower's tax return.

Second, principal reduction modifications are needed to overcome the negative equity problem. This is a primary driver of defaults on mortgages. In redefaults on modified mortgages, 11.3 million mortgages in this country or 24 percent are currently under water, and these numbers will likely grow. In Ocwen's experience negative equity increases the chance of a redefault by 1.5 to 2 times. Accordingly, approximately 15 percent of all of our loan modifications have involved some element of principal reduction.

HAMP already addresses principal forbearance, but there is no provision for principal forgiveness. We believe step principal forgiveness is best; that is incremental principal reductions over time so as long as the loan remains current. Third, additional funding should be made available for housing counseling groups. Grass roots organizations like NCRC, who is here today; ESOP in Ohio; Home Free-USA; National Council of La Raza; and so many others around the country are providing much needed homeowner outreach and counseling. We urge financial support for any HUD-certified counseling organization assisting homeowners through a successful permanent modification under HAMP.

Fourth and last, underperforming HAMP servicers should be required to outsource to performing servicers. Whether for lack of effort or just an inability to handle the volume, too many banks are not producing the results needed to achieve program goals. Treasury should be empowered to redirect servicing to those with a proven track record and available capacity to execute trial modifications and convert them to permanent solutions. Let me conclude by thanking you again for inviting me to testify today and asking that my full written statement be entered into the record. Thank you.

[The prepared statement of Mr. Faris follows:]

STATEMENT OF
Ronald M. Faris, President, Ocwen Financial Corporation

BEFORE THE
Domestic Policy Subcommittee of
the House Oversight and Government Reform Committee

HEARING ON
Function and Impact of the Administration's Response to
the Ongoing Foreclosure Crisis

February 25, 2010

Introduction

Thank you Chairman Kucinich, Ranking Member Jordan and distinguished Members of the Subcommittee for the opportunity to participate in this hearing today. My name is Ronald Faris and I am President of Ocwen Financial Corporation, an independent mortgage loan servicer.

At Ocwen, **we share your sense of urgency to find a lasting solution to our daunting foreclosure crisis** – a crisis that lies at the very heart of our nation's economic problems and threatens millions of families with the **loss of their American Dream – their home.**

Ocwen is *not* a loan *originator* -- we did not make the mortgage loans that are in trouble today. As a loan *servicer*, our job is basically to collect homeowners' monthly mortgage payments and remit them to the loan investors, ensure that hazard insurance is in place and property taxes are paid, and help homeowners get current if they fall behind in their payments. Most of the loans we service have been pooled in real estate investment trusts created by the mortgage-backed securities industry. Currently, our servicing portfolio contains approximately 350,000 mortgage loans, of which approximately 75% were originated as subprime. We also act as special servicer where we help investors and other servicers who lack the necessary capabilities to work with homeowners in distress.

Ocwen's commitment to Foreclosure Prevention through Loan Modifications – A Win/Win/Win Solution for Homeowners, Investors and Servicers

At the outset of the mortgage crisis in late 2007 -- more than a year before the current Administration took office and initiated the Home Affordable Modification Program ("HAMP") -- Ocwen was the first in the industry to adopt an aggressive and comprehensive **loan modification program**. We are proud to have saved **well over 100,000 American families** from foreclosure, or approximately one out of every three loans we service.

Our modification program re-engineers lower mortgage payments that are both

(a) **affordable** by the homeowner on a **sustainable** basis, and

(b) result in a **positive Net Present Value** ("NPV") for the loan investors, i.e., returning greater cash flow from the modified loan than the net proceeds that would otherwise be realized in a foreclosure.

Loan modifications crafted in this way are consistent with our contractual obligations and result in a **win/win/win** solution for all involved. The homeowner keeps their home; the loan investors avoid substantial losses; and the loan servicer retains the loan in its servicing portfolio. (*See Appendix A for media reports on Ocwen's leadership in foreclosure prevention in TIME Magazine, New York Times, Wall Street Journal, CBS Evening News, National Public Radio and the trade press.*)

Equally important for **investors**, independent expert studies show Ocwen consistently outperforms industry in loss mitigation, including returning **the highest cash flows** by any servicer in modifying 90+ days delinquent loans – an amount that is **twice the industry average.** (*See Credit Suisse report cited in Appendix B, along with similar studies by Moody's, LPS and Bank of America.*)

Ocwen's continuing support of HAMP and recommended Program enhancements

Ocwen was one of the earliest supporters of the HAMP program when it was first announced by the Administration. We believe it was then and continues to be a decisive and well designed response to the mortgage crisis. The Treasury Department has aggressively implemented the program, having successfully signed up approximately 90% of the industry's banks and servicers as HAMP participants. Even so, almost a year into the program, **too many homeowners facing foreclosure continue to have difficulties obtaining loan modifications**. In our view, this is due in large part to **a lack of sufficient capacity and expertise in the industry** to effectively handle the unprecedented numbers of distressed homeowners in need of assistance.

Ocwen is heavily invested – **over $100 million in R&D over the past 25 years** – in loan servicing technology that is both **scalable for high volume and incorporates behavioral science learning for effective customer communication**. Deploying this platform for HAMP, we are proud to **lead the industry in converting trial modifications** under to permanent solutions in the program. (*See Appendix C for a report by Professor Alan White, a leading expert on foreclosure prevention and HAMP commentator.*) We are also pleased to report that our HAMP and non-HAMP modifications **re-default at only one half the industry average rate**, according to the most recent OCC/OTS Mortgage Metrics Report. Of course, HAMP trials must convert to sustainable permanent modifications if the mortgage crisis is to be abated.

As part of our commitment to make HAMP a success, we welcome the opportunity to share with the Subcommittee our recommendations for program enhancements, as follows.

- **Lower the required Debt-to-Income ("DTI") ratio below 31% or utilize a "Residual Income Approach" to determine true affordability**

Essential components of the HAMP program are the financial incentives for borrowers, investors and servicers who participate, but those incentives do not apply to modifications where the monthly mortgage payment is less than 31% of the homeowner's monthly gross income. One out of every four HAMP applicants we see already has or would need to be modified to a DTI ratio below 31%. This is typically the result in cases involving families struggling with higher household expenses for food, clothing, education and the like.

To ensure these families are not excluded, we recommend HAMP be amended to permit use of a **flexible Residual Income Approach** to determine true affordability on a case-by-case basis. Under that method, the totality of the homeowner's particular facts and financial circumstances is evaluated, specifically including household expenses. The monthly payment is then reduced to whatever amount that homeowner can actually afford, so long as the modification remains NPV-positive for the investor.

Alternatively, if the Residual Income Approach is deemed too difficult to administer, HAMP guidelines could be changed to provide either an across-the-board DTI of 28% or a sliding-scale that cascades below 31% based on the number of dependents reported on the borrower's latest tax return.

- **More effective use of Principal Reduction Modifications to overcome the "Negative Equity" Problem**

Despite signs of the housing market stabilizing in certain areas, a primary driver of defaults on mortgages -- and re-defaults on modified mortgages -- continues to be **negative equity**. First American Core Logic reports that 10.7 million mortgages, or 23%, are currently "underwater," that is, the amount owed on the loan is greater than the market value of the house. Another 2.3 million are approaching negative equity, i.e., less than five percent equity.

In Ocwen's experience, negative equity increases the chance of re-default by 1.5 to 2 times. The tendency to re-default is particularly severe at LTVs over 125%. Accordingly, approximately **15% of all of Ocwen's loan modifications** since the onset of the mortgage crisis have involved some element of **principal reduction**. (See Appendix C for reports on Ocwen's leadership in principal reduction modifications.) The re-default rates on our principal reduction modifications are at the same low levels as our other modifications, about half the industry average.

More frequent and effective use of principal reduction is needed to rectify the negative equity problem. While HAMP includes principal *forbearance* as part of the modification waterfall, there is no requirement for principal *forgiveness*. More research is needed, however, to determine the extent to which forgiving principal *upfront* in fact results in lowering re-defaults or raising NPVs. For example, it may be better to utilize "**step principal forgiveness**," that is, incremental principal reductions over time depending on the loan remaining current. This and other approaches to negative equity should be pilot tested for possible larger scale deployment under HAMP.

Principal Reductions and the Moral Hazard Debate

An important policy issue that arises in connection with principal reductions is whether they risk creating a "**moral hazard,**" i.e., why let reckless borrowers off the hook while responsible taxpayers are stuck with the tab?

This is indeed a sensitive issue, but we would point out that a foreclosure hurts not only the family who loses their home, it also negatively impacts surrounding property values, reduces the tax base for municipalities and creates a blight on the neighborhoods – all to the detriment of responsible taxpayers. To prevent short term windfalls, however, any principal forgiven should be retroactively reinstated if the homeowner sells the house and prepays the mortgage within a stated period, say five years. This rule should not apply in cases of relocation needed for employment purposes.

- **Additional funding should be made available through HAMP for non-profit housing counseling and homeowner advocacy groups**

Instrumental to Ocwen's success in foreclosure prevention is the assistance provided by our **non-profit consumer advocacy partners** all around the country. When for whatever reason a homeowner in distress does not respond to our letters or phone calls, we are unable to help them. Through grass roots outreach and educational initiatives, community and faith-based groups such as the Empowering and Strengthening Ohio's People (ESOP), HomeFree-USA, National Association of Neighborhoods, National Community Reinvestment Coalition (NCRC), National Council of Laraza, National People's Action (f/k/a Training and Information Center), Neighborhood Assistance Corp. of America (NACA), St. Ambrose Housing Aid Center and so many others have greatly assisted us in making that key communication link with our customers.

HAMP currently provides support for HUD-certified counseling for homeowners in the program with a total DTI ratio of 55% or more. We urge expansion of financial support for any HUD-certified non-profit organization assisting homeowners **through a successful permanent modification under HAMP**.

- **HAMP should be expanded for successful long term modifications**

The foreclosure prevention objectives of HAMP would be well served if the program were expanded to provide financial incentives for loan modifications completed for homeowners who have a financial hardship, but for other reasons technically do not qualify under HAMP, such as their current DTI being below 31%. Specifically, servicers should receive a HAMP incentive if they modify owner-occupied loans within 90 days after a HAMP denial and the homeowner remains current on the modification and stays in the home for at least 18 months. Additional success fees would be earned if the homeowner thereafter remains current for a second and third 18 month period.

- **Underperforming HAMP servicers should be required to outsource to performing servicers**

Ultimately, HAMP will be successful only if participating banks and servicers are willing and able **to deliver permanent modifications in sufficient volumes to make a material impact on foreclosure prevention**. Whether for lack of effort, conflicts in protecting second lien holdings or simply insufficient capacity to execute lasting solutions, a number of banks participating in HAMP are not producing the results expected under the program. HAMP should be amended **to permit Treasury to transfer servicing**, in whatever volumes are needed to achieve program goals, to **servicers with proven track records and scalable capacity** available to execute and convert trial modifications to permanent solutions, and to do so quickly.

- **Increase consumer awareness of HAMP and its criteria for participation through more national media advertising.**

In order to continue the momentum of getting more struggling borrowers into the HAMP program, we believe that more national media advertising by the Administration is needed.

Conclusion

Let me conclude by saying that, as the President and Congress work together to combat the economic crisis, **Ocwen is ready, willing and able to help**. We are delighted to have been selected by Freddie Mac and other institutions to assist in resolving seriously distressed loans, and we have significant additional capacity that can be made available. Ocwen and other servicers are the front line of the fight against home foreclosures, and we have the most potent ammunition to win the battle – customized, scalable loan modifications that last.

I thank you again for inviting me to testify today. I will answer any of your questions and I ask that my full written statement with appendices be entered into the record.

OCWEN

APPENDIX A

Media coverage of Ocwen's leadership in foreclosure prevention

OCWEN

- ***TIME Magazine*** - Barbara Kiviat. "Forestalling Foreclosure". December 31, 2008. (http://www.time.com/time/magazine/article/0,9171,1869202,00.html)
- ***New York Times*** - Vikas Bajaj and John Leland. "Modifying Mortgages Can Be Tricky". February 19, 2009. (http://www.nytimes.com/2009/02/19/us/19loans.html?_r=1&scp=2&sq=ocwen&st=cse)
- ***Wall Street Journal*** - Carrick Mollenkamp. "Mortgage Servicers Try the Softer Touch – Some Hire Psychologists to Help Get the Right Staff to Address Borrowers 'Saving' the Homes" April 8, 2009. (http://online.wsj.com/article/SB123915037102899367.html)
- ***National Public Radio (NPR)*** - Chris Arnold. "Are There More Foreclosures Than Necessary?". May 15, 2009. (http://www.npr.org/templates/story/story.php?storyId=104177396)
- ***HousingWire*** - Jon Prior. "Ocwen Converts 66% of HAMP Trial to Permanent Modifications". November 18, 2009. (http://www.housingwire.com/2009/11/18/ocwen-converts-66-of-hamp-trials-to-permanent-modifications/)
- ***DS News*** - Carrie Bay. "Servicers Face Penalties, Ill Repute as Administration Rallies for More Modifications". November 30, 2009. (http://www.dsnews.com/articles/servicers-face-penalties-ill-repute-as-administration-rallies-for-more-modifications-2009-11-30)
- ***CBS News*** – Aired January 28, 2010 – "Fixing Sub-Prime Mortgages" Ocwen's success keeping homeowners out of foreclosure by cutting mortgage principal. (http://www.cbsnews.com/video/watch/?id=6151073n&tag=mncol;lst;1)

OCWEN

APPENDIX B

Ocwen best-in-class servicer...
We Make Your Loans Worth More®
Helping Homeowners is What We Do!®

OCWEN

- In the few studies that have evaluated servicer performance, Ocwen was ranked each time as the best in the industry
  - Ocwen generates more cash than Moody's "Strong Rated" servicers and 135% more than the average servicer
  - Ocwen has the highest monthly payment velocity of 90+ Delinquent Loans for the 2006 Subprime Vintage as reported by Credit Suisse
  - Ocwen's roll rate from 90+ days delinquent to current leads the industry in both subprime fixed and adjustable rate mortgage loans as determined by Bank of America / Merrill Lynch
  - Ocwen's losses are 48% lower than the 10 best servicers as measured by LoanPerformance

Sources: Moody's, Credit Suisse, Bank of America / Merrill Lynch, LoanPerformance

Compared to Moody's "Strong Rating," Ocwen Cures More Loans and Generates More Cash…

OCWEN

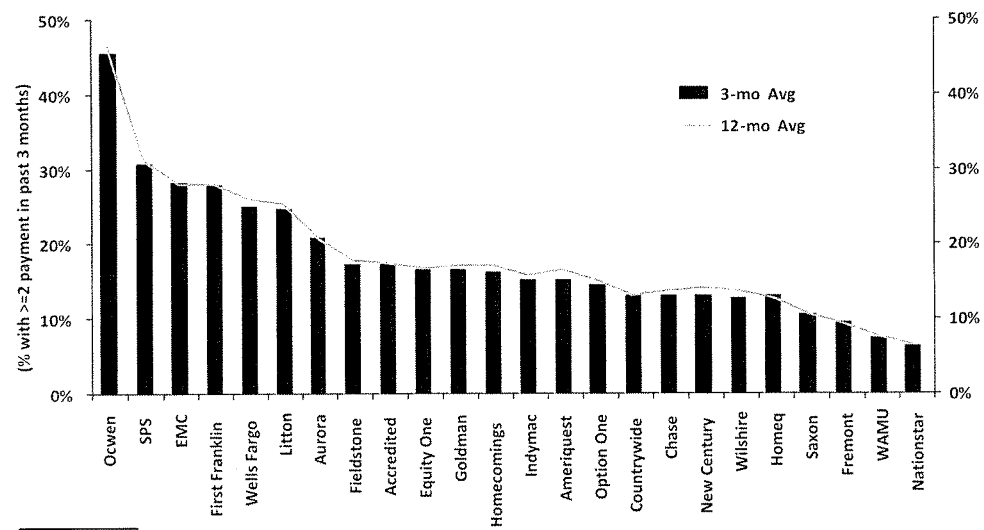
12 Month Total Cure & Cash Flowing Rate for Subprime Loans (net of Bankruptcies)		
	Ocwen	**61%**
Moody's Assessment	Strong Rating	59%
	Above Average Rating	52%
	Average Rating	26%

Ocwen generates more cash than even "Strong Rated" servicers

...which is further substantiated by a recent Credit Suisse study...

OCWEN

Monthly Payment Velocity of 90+ DQ for 2006 Vintage Subprime Loans



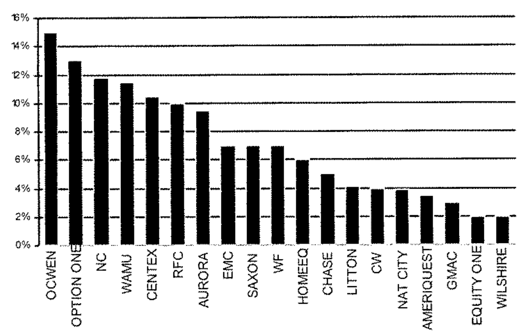
Source: Credit Suisse

...a recent Bank of America / Merrill Lynch study...

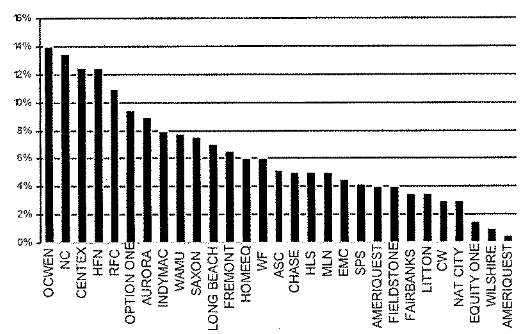
OCWEN

Roll rate from 90+ days delinquent to current

Subprime fixed rate



Subprime adjustable rate



...and also the Loan Performance study

OCWEN

Ocwen has proven track record of managing and minimizing mortgage loss rates

	Ocwen's Rank	Percent of Market	Best		Worst
Losses	1	**52.4%**	**Ocwen**	**52.4%**	**186.8%**
Loss Severity	2	75.3%	Other	68.1%	131.7%
Loss Frequency	1	69.7%	Ocwen	69.7%	141.8%
REO Losses	1	54.3%	Ocwen	54.3%	142.3%
REO Less Severity	1	70.0%	Ocwen	70.0%	139.4%

Ocwen's losses are 48% lower than the Industry

Note: Large sample size based on 10 Subprime servicers (6 of the top 10 servicers). The survey was conducted in 2005 and the approach used samples as of August 2001 through 2004. The loan performance projected "expected" losses on pool of loans and compared the results to actual performance.

Source: Loan Performance Services

OCWEN

APPENDIX C

Ocwen leads the industry in converting HAMP trial mods to permanent mods

OCWEN

- Professor Alan White, a leading academic and commentator on foreclosure prevention and the federal HAMP program, noted:

  "The four big banks, Bank of America, Chase, Citi and Wells Fargo, converted fewer than 1%, fewer than 1%, 4% and 11% of their temporary mods, respectively. **Ocwen, meanwhile, has converted 89% of borrowers who were on temporary modifications in August to permanent mods by November**. The chart below compares cumulative temporary modifications reported in the August report with permanent modifications reported through November." *

Servicer	Perm. Mods to 11/09	Temp mods 8/09	Conversion rate
American Home Mortgage	201	497	40.44%
Aurora	3622	16044	22.58%
Bank of America	98	59891	0.16%
Bayview	50	219	22.83%
Carrington	293	876	33.45%
Citimortgage	271	44750	0.61%
GMAC Mortgage	7111	17347	40.99%
Green Tree	2	366	0.55%
JP Morgan Chase Bank	4302	106288	4.05%
Litton	39	2603	1.50%
Nationstar Mortgage	358	8219	4.36%
Ocwen	4252	4785	88.86%
Residential Credit Solutior	98	274	35.77%
RG Mortgage	23	30	76.67%
Saxon	42	29011	0.14%
Select Portfolio Servicing	218	9500	2.29%
Wachovia	351	1812	19.37%
Wells Fargo	3537	33172	10.66%

* Professor White's chart and full statement, "HAMP Homeowners Stuck in Limbo" (Dec. 10, 2009), can be found at http://pubcit.typepad.com/

Ocwen leads the industry in Principal Modifications

OCWEN

- **"Subprime Loan Modifications," Credit Suisse, October 1, 2008**
- **"Lenders Cite Gain on Loan Relief" by Renae Merle—*Washington Post,* December 23, 2008**
  - **"...mortgage servicer Ocwen Financial performed thousands of principal reductions this year, accounting for 70 percent of the industry's efforts, according to a recent Credit Suisse report."**

Mr. KUCINICH. It is so ordered. And thank you.

Mr. Pinto, you may proceed for 5 minutes. Thank you.

STATEMENT OF EDWARD J. PINTO

Mr. PINTO. Chairman Kucinich and Ranking Member Jordan, thank you for the opportunity to testify today. Let me first provide some background regarding the cause of the foreclosure crisis. I have a chart. Chart one demonstrates the loan-to-value ratios and foreclosure rates that have been increasing in this country for decades. You will see that FHA has been leading the way for decades also in rising loan to values. FHA foreclosure start rate now stands at 32 times the level that it had in 1951. The collapse of the mortgage market had a single cause: the accumulation of an unprecedented number of weak loans. In 2008, approximately 50 percent——

Mr. KUCINICH. I'm going to ask the gentleman to suspend. We've got to make sure we can hear you. You need the mic, and speak into it. Thank you.

Mr. PINTO. The collapse of the mortgage market had a single cause; the accumulation of an unprecedented number of weak mortgages. In 2008, approximately 50 percent of outstanding single-family mortgages were weak and prone to failure with two-thirds being the result of Federal programs. How did this happen?

In 1995, the Federal Government issued its national homeownership strategy. It required the use of flexible and alternative lending in, quote, an unprecedented public-private partnership to increased homeownership to record high levels over the next 6 years. With this national policy in place, the lending equivalent of Gresham's law took place. Weak lending drove out good.

Turning to the administration's Home Affordable Modification Program, I would like to recall HAMP's original goal that still is posted on their Web site. To help as many as 3 to 4 million financially struggling homeowners avoid foreclosure by modifying loans to a level that is affordable for borrowers now and sustainable over a long term.

The Treasury Department has consistently painted rosy scenarios regarding HAMP's progress. In an apparent desire to post big numbers early on, the concept of a trial modification was introduced. Borrowers were allowed to enter a trial without qualifying on the basis of income. This wasn't fair to borrowers who had no chance of qualifying. Many will be worse off than if they had been given a quick no and encouraged to find alternative housing.

As a result, the HAMP pipeline became hopelessly clogged with a lion's share of the blame, in my opinion, falling on Treasury. The January 2010 HAMP report contains a statement that strains credulity. It noted, "the program is on pace to meet its overall program goal of providing 3 to 4 million homeowners the opportunity to stay in their homes." That was not the goal.

The truth is HAMP has been a spectacular failure when measured against that goal. In the first 11 months, there have been 116,000 homeowners who received permanent modification. Subtract expected redefaults and you might end up with 75,000 homeowners who are safe from foreclosure, about 2 percent of the goal.

I predict that ultimately HAMP will only meet a small percentage of its 3 to 4 million foreclosure goal.

The same redefinition of program goals applies to HARP, the Treasury's refinance program. It was to help 4 to 5 million homeowners shut out from refinancing because their current loan to value was above 80 percent. Through December 2009, Fannie and Freddie have completed 190,000 HARP refinances, less than 5 percent of their goal. Not a problem. Making Home Affordable 2010, a January 2010 report, now takes credit for 4 million refinances of all type regardless of LTV.

Treasury promised transparency. What we get are disingenuous progress reports when it comes to program goals. This committee and the American people deserve an honest assessment of what HAMP and HARP can do. Why is the problem so intractable? We're facing a more challenging situation than ever because credit standards were severely compromised by Federal policies prior to the onset of the current crisis.

What delinquent borrowers in the housing market need is triage that provides quick answers and fast decisions. This will allow the shadow inventory of millions of defaulted loans that cannot benefit from modification to end up in the hands of qualified homeowners.

Late last month Treasury announced changes to HAMP process which should help meet the goal of providing quick answers and fast decisions. It will hopefully put an end to no-doc trial modifications. Unfortunately, the changes do not take effect for three more months.

One last note, in Ms. Caldwell's testimony, it's noted that $2 billion in savings have already been recognized by HAMP participants and administrative action has kept interest rates at historic lows.

But I think we must be honest; there is no free lunch. Tens of millions of Americans, many pensioners living on their savings, many of your constituents, are suffering a real loss of income due to these low rates. Households in this country own $11 trillion in fixed assets. Many now earning about 2 percent less than previously. That's over $100 to $200 billion a year in lost income and tens of billions of dollars in lost taxes. Thank you, and I look forward to your questions.

[The prepared statement of Mr. Pinto follows:]

Statement of

Edward J. Pinto

Before the Domestic Policy Subcommittee on of the Oversight and Government Reform Committee

United States House of Representatives

February 25, 2010

1

Hearing before Domestic Policy Subcommittee on of the Oversight and Government Reform Committee – February 25, 2010

Submitted testimony by Edward Pinto, real estate financial services consultant and former chief credit officer of Fannie Mae (1987-1989).

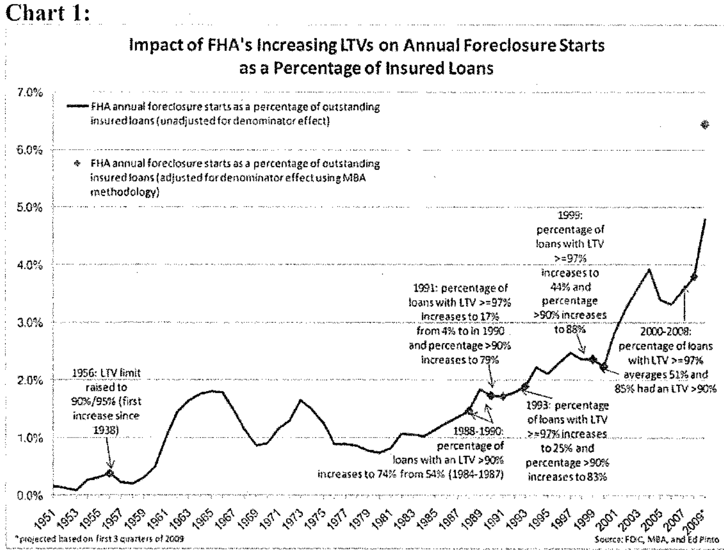
Chairman Kucinich and Ranking Member Jordan, thank you for the opportunity to testify today. I am an expert in credit risk methodologies and loan performance metrics. I was Fannie Mae's chief credit officer from 1987 to 1989. In the mid-1980s I was responsible for Fannie's single and multi-family marketing, including management of its affordable housing programs.

My purpose in testifying today is to discuss the impact of the Administration's response to the ongoing foreclosure crisis.

Given the committee's oversight role, let me first provide some background regarding the causes of the foreclosure crisis.

Foreclosures have been increasing for almost 60 years. As Chart 1 demonstrates, FHA's foreclosure start rate now stands at 32 times the level in 1951:

Chart 1:



Sources: FDIC, MBA, FHA's 2009 Actuarial Study, Thomas Herzog, and Edward Pinto

Starting in the early 1990's the full force of the federal government was brought to bear on increasing affordable housing. The method chosen was a comprehensive and organized effort to loosen underwriting standards nationally. It was in the first half of the 1990s that the federal government adopted three policy initiatives that were intended to supplement the work of the Federal Housing Administration (FHA), which had long been the federal government's main vehicle for higher risk home lending:

1. **In 1992, Congress imposed affordable housing goals on Fannie and Freddie (Safety and Soundness Act of 1992) and they became both competitors to FHA and a source of demand for CRA loans;**
2. **In 1994, HUD began to implement its "Fair Lending Best Practices Agreements" with lenders across the nation; and**
3. **In 1995, the Community Reinvestment Act (CRA), which had been passed in 1977 but had had little impact on bank lending, was given new life with stronger regulations applicable to all insured banks.**

These new initiatives covered most lenders and most of the secondary market. Each explicitly (FHA, CRA, and HUD) or implicitly (Fannie and Freddie) required the

use of "flexible" lending standards. The goal was to stimulate housing demand – with all the focus on borrowers with incomes below the median. It also set up a series of "dog chasing its tail" scenarios as the GSEs had to compete with FHA, subprime lenders, and CRA lenders and vice verse, Fannie and Fannie had to both compete with each other and lead the market, and big banks had to leap-frog each other in CRA-performance in order to maintain an outstanding CRA rating, the rating necessary to get mergers approved, and by the way create "too big to fail" banks..

With these initiatives in place, in 1995 HUD announced the "National Homeownership Strategy"; self-described as "an unprecedented public-private partnership to increase homeownership to a record-high level over the next 6 years". HUD "forged a nationwide partnership that will draw on the resources and creativity of lenders, builders, real estate professionals, community-based nonprofit organizations, consumer groups, State and local governments and housing finance agencies, and many others in a cooperative, multifaceted campaign to create ownership opportunities and reduce the barriers facing underserved populations and communities." The goal was to make "financing more available, affordable, and flexible" in order to:

1. Increase ownership opportunities among populations and communities with lower than average homeownership rates;
2. Reduce downpayment requirements and interest costs by making terms more flexible, providing subsidies to low- and moderate-income families, and creating incentives to save for homeownership; and
3. Increase the availability of alternative financing products in housing markets throughout the country.

Trillions upon trillions of weak loans were originated. Weak lending had a double action effect. It fueled both demand and a massive price boom which enabled unprecedented amounts of equity withdrawals which added additional fuel to a continuing price boom. The line of causation from the federal policy initiatives of the early- to mid-90s to the mortgage meltdown is clear.

We are now living with the consequences of the National Homeownership Strategy. As of June 30, 2008 over 26 million out of 55 million first mortgages had weak underwriting or to use the terms of the National Homeownership Policy – flexibly underwritten or alternative loan products.

Third, just last week, the Federal Housing Finance Agency, regulator and conservator for Fannie and Freddie, noted "[a] result of the crisis is that the mortgage market has returned to more traditional and prudent lending standards." Fannie has reduced its acquisition of high LTV loans by over 80%, of loans with a FICO below 660 by almost 90%, of investor loans by almost 70%, and has reduced "back-end" borrower debt-to income ratios from 50% to 45%. In short it has returned to many of the sustainable lending standards that prevailed before the government mandates for flexibly underwritten and alternative loan products. If FHA would do the same, our real estate markets would be much stronger in the long run. Replacing flexible lending standards with sustainable ones is the best form of consumer protection.

I will now turn to Administration's Home Affordable Modification Program (HAMP). When evaluating a program, it is always useful to recall the original goal: "[t]o help as many as 3 to 4 million financially struggling homeowners avoid foreclosure by modifying loans to a level that is affordable for borrowers now and sustainable over the long term."[1] This goal was clear cut and unequivocal with the operative words being the avoidance of 3-4 million foreclosures and creating sustainable modifications. Accomplishing this goal would have made a real dent in the estimated 7-8 million foreclosures, deeds-in-lieu, and short sales expected over 2009-2012.

The Treasury Department has consistently painted rosy scenarios regarding HAMP's progress. Apparently in a desire to post big numbers early on, the concept of a trial modification was introduced. Borrowers were allowed to enter a trial without qualifying on the basis of income. No doc loans were replaced with no doc modifications. This wasn't fair to those borrowers who had no chance of qualifying. They were left in a no man's land and many will be worse off than if they had been given a quick no and encouraged to find alternative housing. This design flaw caused the HAMP pipeline to become hopelessly clogged, leading to a series of blame and shame attacks on servicers. While servicers have certainly made mistakes, the lion's share of the blame falls on Treasury for poor program design.

The recent press release announcing the January 2010 HAMP report attempted to paint a rosy gloss on the program's meager accomplishments. In a statement that strains credulity, it noted "[t]he program is on pace to meet its overall program goal of providing 3-4 million homeowners the opportunity to stay in their homes." The truth is HAMP has been a spectacular failure when measured against the original goal of helping 3-4 million homeowners avoid foreclosure:

[1] HAMP website

1. **In its first 11 months 116,000 homeowners have received permanent modifications. About a third or more of these modifications are expected to re-default, resulting in the avoidance of about 75,000 foreclosures or about 2% of the stated goal.**
2. **At the rate HAMP is going, out of the pool of 3.4 million HAMP eligible delinquent[2] borrowers at 12.31.09 perhaps only 250,000 homeowners will avoid foreclosure - about 5-8% of the original goal.**

The same redefinition of the program goal applies to HARP, Treasury's refinance program. It was designed to help 4-5 million homeowners shut out from refinancing because their current loan to value was above 80%.[3] Through December 31, 2009 Fannie and Freddie had completed 190,000 HARP refinances, less than 5% of the goal.[4] The Making Home Affordable January 2010 report makes no mention of HARP modifications, only to a more generic category called "Making Home Affordable – Refinancing" where credit is taken for 4 million refinances of all types.[5] Treasury promised transparency. What we have gotten instead are disingenuous progress reports that use "bait and switch" when it comes to program goals.

These examples present serious areas for oversight by this subcommittee.

But why is the problem so intractable?

1. **We face a more challenging situation than ever before as the Three Cs of Lending - Collateral, Credit, and Capacity - were all severely compromised PRIOR to the onset of the current crisis. Recall the National Homeownership Strategy and the 26 million weak loans I mentioned earlier:**
    a. **High LTV lending and loans to credit impaired borrowers were rampant leading up to the crisis.**
    b. **Most nonprime loans were "income challenged" to start with due to being a liar loan or payment shock. Under HAMP, the average overall debt ratio after modification is still 60%. Recall that Fannie has reduced its maximum on new loans from 50% to 45%. 45% is still a high ratio by historical standards.**

---

[2] January 2010 Making Home Affordable report. Delinquent is defined as 60+ days delinquent.
[3] Speech by President Obama: "My plan changes that by removing this restriction [of refinancing for mortgages valued at more than 80 percent of the home's worth] on Fannie and Freddie so that they can refinance mortgages they already own or guarantee. And what this will do is it will allow millions of families stuck with loans at a higher rate to refinance." http://www.whitehouse.gov/the_press_office/remarks-by-the-president-on-the-mortgage-crisis
[4] http://www.fhfa.gov/webfiles/15389/Foreclosure_Prev_release_1_29_10.pdf
[5] http://www.financialstability.gov/docs/press/January%20Report%20FINAL%2002%2016%2010.pdf

2. In December 2008 I testified before the full Oversight and Government Reform Committee. I warned that any modification plan must target the right group of homeowners, but equally important, participants must be willing and able to carry a fixed-rate, reasonably priced mortgage.
3. What delinquent borrowers and the housing market need is triage that provides quick answers and fast decisions. This will allow the shadow inventory of millions of defaulted loans that can not benefit from a modification to end up in the hands of qualified homeowners.
4. There are three types of delinquent loans. The first consists of vacant homes with loans often taken out by scammers or investors. These need to be identified quickly and, when necessary, foreclosed on. The second group consists of borrowers who can't or won't pay their mortgages. These borrowers need to be given incentives (either a small amount of cash or the ability to conduct a short sale) to vacate their homes. Many foreclosed homes in these two groups will be scooped up by bargain hunters and either fixed up or rented out, while others will be bulldozed. The third group consists of homes that can be saved because the borrower has a demonstrated ability and willingness to pay. We can best help this group if we stop clogging the system with unqualified borrowers from groups one and two.
5. Finally late last month, Treasury announced changes to the HAMP process which should help meet the goal of providing quick answers and fast decisions. It will hopefully put an end to "no doc" trial modifications. Unfortunately the changes don't take effect for 3 more months.

Treasury should focus on saving the homes of this third group of borrowers by modifying their loans, while foreclosing on those in group one and encouraging those in group two to voluntarily move on with their lives. As I said earlier this group is not 3-4 million homeowners, but perhaps 500,000.

Bottom line – there is no way the current HAMP and HARP can accomplish but a small fraction of their original goals. This subcommittee and the American people deserve an honest assessment of what HAMP and HARP can accomplish.

The TARP Special Inspector General on January 31, 2010 noted that "increasing access to credit increases the pool of potential home buyers, increasing access to credit boosts home prices." Policy makers can't have it both ways. If they want to take credit for the effect that today's housing stimulus is having in terms of boosting or propping up prices, they must also take responsibility for the effect that weak lending had when it fueled both unsustainable demand and price increases leading up to the financial crisis.

Thank you and I would be happy to take questions at the appropriate time.

Mr. KUCINICH. Thank you, Mr. Pinto.

There's no such thing as a free lunch but apparently, there's multi-billion dollars in bonuses for bankers who got TARP, so we have to figure out that squares with folk wisdom.

I heard Ms. Gordon correctly talk about the root of the crisis. And I think we should be clear that this foreclosure crisis started well before the current administration came into office, and it is rooted in policy decisions that created the largest asset bubble in American history, an $8 trillion home mortgage bubble. So to call this crisis a prime crisis would miss the point.

The bubble was created by Federal Reserve policies that kept interest rates low for the explicit purpose of allowing home prices to inflate, knowing and expecting and tacitly encouraging that homeowners would use their rising home values to supplement stagnant wage incomes using a house as an ATM. It wasn't a product of greedy and irresponsible homeowners, it was a product of a shrewd but ultimately disastrous government calculation and policy.

And American workers have been the biggest losers in this crisis so far. They're the ones who have been thrown out of the work place in large numbers, had their hours reduced, their benefits cut, they're the ones who have been forced to give up their family homes and do a bankruptcy and the ignominy of public foreclosure proceedings, so labeling this crisis a subprime crisis would really be blaming the victims.

The crisis was not caused by people who lost their homes and their life savings and their reputation, it was caused by people who perpetrated what I think is kind of a hoax. Responsibility for the crisis in repairing the damage falls on every person and every institution, including past and current Representatives of both Members—of Congress or both parties in Congress, rather, as well as the last administration, and this current administration now has the responsibility, who should have been and are responsible for assuring the ethical and financial integrity of our banking and monetary system.

We're picking up the pieces here.

Now, Mr. Berenbaum, you mentioned in your testimony the role of credit rating agencies and influencing loan servicer behavior making them to be more inclined to act on a delinquent loan first by foreclosing on it, then modifying it and only as a last resort cutting principal. Can you elaborate how credit rating agencies influence this process?

Mr. BERENBAUM. Certainly, Mr. Chairman.

There's, unfortunately, more and more growing evidence now that the SEC failed to appropriately regulate or monitor the credit rating agencies in this Nation. And the way the system worked, in fact it worked toward incentivization of profit and simply affirming whatever paper was presented before those rating agencies.

They actually even called themselves publishers of information rather than in fact reviewers of that information. This also led to significant fair lending issues because if you look at in fact many of the triple A ratings that those agencies gave, subprime, nontraditional, it was the companies such as Ameriquest, New Century and others which is impacted not only on Ohio, but frankly low- to moderate-income communities across the country.

Mr. KUCINICH. Thank you, Mr. Berenbaum.

One final question, Ms. Gordon. Are there legal solutions to the obstacles that some might see in doing principal reduction for borrowers.

Ms. GORDON. I'm not sure what you mean by legal solutions. But one of the obstacles right now is that a number of these loans held by investors have second liens on them; about half of all securitized loans have a second lien.

Mr. KUCINICH. So does Treasury have leverage to get around that?

Ms. GORDON. Treasury has a program—Treasury unveiled a program in the spring of last year, the 2MP program, designed to try to attack the second lien program, but no servicers have used it. I had heard that Bank of America has now signed up for it. I don't exactly know what that means. But as far as I know no one has yet used the 2MP program in the HAMP program. It seems to us that Treasury should require servicers to use the 2MP program to resolve these second liens, which are essentially worthless at this point in most cases.

Mr. KUCINICH. Thank you.

Mr. Jordan.

Mr. JORDAN. Thank you, Mr. Chairman.

Ms. Gordon, do you believe that HAMP is, do you believe HAMP is working at all? Do you think it's a pretty bad program? I mean, do you think like I do; do you think the track record of HAMP is terrible?

Ms. GORDON. It's clearly underperforming what we need to do to get ahead of this crisis.

Mr. JORDAN. Here's how I'm a little confused. Because in your testimony, you said Federal policies had nothing to do with contributing to the mess that we got in. So the Government had nothing to do with contributing to the mess we got in, even though the track record of Government trying to fix is pathetic.

Ms. GORDON. The Federal policies I'm referring to in that section are there's been a lot of talk about how the Community Reinvestment Act and other policies, in fact I think Mr. Pinto mentioned this earlier, are somehow responsible for the toxic loan products, when in fact, for the most part, the loans made under CRA were safer loans and ended up having a much better performance profile than the risky loans that were made outside of that system.

Mr. JORDAN. Mr. Pinto, is that an accurate statement, the loans, the one that Ms. Gordon just made relative to the Community Reinvestment Act?

Mr. PINTO. The accurate part of the statement is most Community Reinvestment Act loans were fixed-rate, lower-interest-rate loans. If you compare those loans to other fixed-rate loans that had higher interest rates, my research shows that the default rates on the CRA loans are also high.

I'll give you one example, ESOP, with Third Federal Savings, and ESOP has testified a number of times about the great job that Third Federal had done. What they haven't testified about is the performance of those loans. These were CRA loans, low interest rates. They were subsidized generally. They are running at 37 percent delinquency rate on a $300 million portfolio. Third Federal has suspended the program because of its poor performance.

Mr. JORDAN. Do you agree with my statement that I made in my question to Ms. Gordon that Federal policies—I know you agree with this—Federal policies helped get us in this mess; how in the world are Federal programs going to help get us out of it? I come from this whole thing, big government spending, big government programs are going to get us out of this economic concern we have been in. Well, heck, we would have been out of it a long time ago, because that's all we've been doing for 2 years. We have seen things we never imagined we would see in the United States of America.

And we can't even get, now, Treasury just to comply with—I mean, you were here for my earlier question of Ms. Caldwell—we can't even get them to comply with what the Inspector General wants them to do on the original no-doc loan, getting documentation. I mean, it just highlights and underscores, when you travel down this road, you end up making things worse. And when you attempt to solve it, what you do is put a lot of taxpayer money at risk, and not really help the people who, I agree with my colleague, who has passion. I mean, we all do. You don't really help the folks who, frankly, need some help, so comment on that and then I will yield back.

Mr. PINTO. Let me just comment that in the first quarter of 2009 the OCC, OTS puts out their mortgage metrics report, and there were 190,000 modifications that were done in that quarter. There are about 150,000 that were done in the second quarter. This is before HAMP got ramped up. And there was a growing tide of those, heavily growing tide into interest rate reduction, much like HAMP.

Since then, the number of modifications reported has declined, and I believe we're going to end up seeing that the $190,000—excuse me, 190,000 loan number that existed in the first quarter won't be surpassed in 2009, so it's actually slowed down the process. And I think my suggestion is focus on Fannie and Freddie, which I think are 60 percent of HAMP, and let the private sector on their loans deal with them the way they were actually doing many things back in early 2009.

Mr. JORDAN. Homeowners would be better off financially. They would get some quicker remedy, you know, quicker action, whatever that would be, and we could focus on what the bigger problem is with Fannie and Freddie.

Mr. PINTO. Right.

Mr. JORDAN. Great point, great point.

Mr. KUCINICH. I thank the gentleman.

The Chair recognizes Ms. Kaptur.

Ms. KAPTUR. Thank you, Mr. Chairman. This has been an outstanding panel. And I thank you very much for coming today and what you've placed on the record.

Several witnesses today, including many of you, recommended principal write downs. Let me offer the observation that I don't think servicers can do principal write downs. Many servicers have business with the five biggest banks that caused this mess to begin with, coupled with the changes in the banking laws back through the 1990's that changed prudent lending to securitization, and local banks holding a portion of those loans, and we moved it to a bond. We changed a loan to a bond, and they sold it to everybody on the face of the earth.

And so the collectability issue, Mr. Pinto, you used three words, collateral, credit and capacity. I always say character, collateral and collectability. There's no collectability. And so, how do you do the loan workout? How do you do the normal accounting changes, that's where I want to go, by using FDIC, SEC and those involved in that given loan? I don't think we can get it through the servicers. I think HAMP is proving that. We can't do it.

So we need to be able to do what we did back in the 1980's. We need to be able to work out those loans, get the assets and liabilities to balance on those books, and there's going to have to be some real estate write downs. We're going to have to get down to some level within the banking system, and that is what is not happening.

And I wanted you to comment on that. I wanted you to comment on two things for me. One is your view of servicers being able to solve this problem through HAMP, even as you ask for principal write downs. And if you were to recommend to the President how to rearrange what he's doing in order to get at this real estate crisis so we don't have millions of homes vacant across this country, who would you tell him to bring into his office, the Oval Office, all these agencies so we can get at the value of real estate and do loan workouts where we can get them done?

So I want you to comment on the principal write down, who can actually do it? And I don't believe the servicers can. And then what would you say to the President to get to where you want to go and help us to move the housing market to a more positive position and keep people in their homes?

Mr. BERENBAUM. Ms. Kaptur, if I may jump in, I think that's an excellent question. And I will respond quickly to allow each of the panelists their opportunity. Right now, there's an overreliance in balloon payments by servicers across this country, so really there is no principal reduction.

Frankly, what we are hearing from the investor community is that they are ready to begin some serious principal reductions, and to paraphrase, they are ready to take their share of the haircut that's necessary to correct the marketplace. But the system right now is loaded with conflicts. For example, you noted earlier that a majority of the seconds are held by the banks, the same banks that operate a majority of the servicers in this Nation, conflict No. 1.

Conflict No. 2 is some of the accounting rules that we've been discussing in this presentation and before this hearing as well.

Issue No. 3, we have to get beyond the blame game. Everyone is at fault. There is shared blame here. And if we are going to move ahead, we need to ensure a meaningful regulatory structure that embraces the Community Reinvestment Act for what it has done in responsible lending for community reinvestment. We need to embrace the strong Consumer Financial Protection Agency, and we need to work with responsible servicers and lenders who are willing to do business in the way that is required to bring trust back to the market that you spoke to earlier.

We are not going to see global investors or pension funds or others buy in the secondary market until those minimum requirements are made.

Last one more point that I would like to make is that we do need to focus on the HARP program as well. Ultimately, who owns that $400 billion of risk right now? It is not the private sector; it is the taxpayers. What a wonderful way to go about, in fact, reaching 70 percent of the outstanding mortgages by, in fact, reducing the risk associated to the taxpayer through principal reduction. We have the power to do that through eminent domain or through the power of Congress.

Ms. KAPTUR. Thank you.

Ms. Gordon, did you want to say something there?

Ms. GORDON. Well, I agree with most of what Mr. Berenbaum has said.

I will note that servicers in serving accounts that are held in portfolio seem quite able to do principal reductions. There are principal reductions happening; they're just not happening for the securitized loans.

Ms. KAPTUR. And what percent are represented of the portfolio of securitized loans?

Ms. GORDON. That depends on the servicer. But in terms of the troubled loans, quite a lot of them are securitized.

The places where the portfolio loans are doing the most principal reductions is with respect to payment-option ARMs, which for the most part are so under water, not only because they're located in some of these highest price decline States, but also because they had negative amortizations built into the loans. These loans are poorly served by HAMP. HAMP can't really help them for a variety of structural reasons.

So it's clear that the problem does have to do with these conflicts of interest. And I completely agree with you that not all of the banking and securities regulators that need to be at the table seem to be at the table rowing in the same direction with the Treasury's program. I know the folks at Treasury, and despite my concerns about the underperformance of the program, I know that they're trying their best, but there needs to be a team approach here, and we already know that the prudential regulators have not had a history of putting consumer interests at the top of their agenda. That's why it's so important to have an independent consumer protection agency.

But most of all, this is why it's so important to do things like change the Bankruptcy Code. I mean, ultimately, you need someone to just—who has the power to cut through all of this, regardless of the various interests and conflicts involved. We already have a system set up in this country for that. The entire bankruptcy system does just this. Principal-residence mortgages are the only type of debt that can't be restructured. Your second home mortgage can be. Your yacht can be, but not the home that you live in and have made your life in.

Mr. KUCINICH. Thank you very much for your testimony.

I want to thank all the witnesses.

This is the Domestic Policy Subcommittee joined by my colleague, Congresswoman Kaptur, and we've had a full hearing today with many Members of Congress testifying—or rather participating.

I'm Congressman Dennis Kucinich, Chair of Domestic Policy. We are going to continue our work on this issue, and we are going to continue to work for a serious program of principal reduction in order to help keep people in their homes.

Thank you very much. Adjourned.

[Whereupon, at 4:50 p.m., the subcommittee was adjourned.]

[The prepared statement of Hon. Marcy Kaptur and additional information submitted for the hearing record follow:]

Insert for the Record by Representative Marcy Kaptur

Making Home Affordable doesn't work because:

- The 31% threshold is too high, especially for a region with traditionally affordable housing stock. This percentage doesn't work. SOLUTION: Participation should be based entirely on ability to pay, not an arbitrary % threshold.

- Gross income is not a good indicator for affordability. SOLUTION: NetT income should be what is used when calculating affordability for homeowners.

- Lender/Servicer representatives are oftentimes inconsistent, undertrained, incompetent and lack ability to think outside the box. If customers do not fit into the cookie cutter MHA formula, very few, if any, other options are available to homeowners. Inconsistent use of partial claims in conjunction with MHA calculations also complicates the process. In addition, representatives oftentimes lack authority to make loan mods. SOLUTION: According to new regulations, anyone who "offers or negotiates terms of a residential mortgage loan must now hold a loan originator license which requires both state and federal testing and licensure. However, bank personnel are not required to be licensed. It does not make sense for a foreclosure counselor to have to pass a test and get a license, if the bank personnel (the actual people who will be accepting or rejecting the loan mod) are not held to the same standard.

- Documents are constantly lost, misplaced or allegedly "never received" by the lender after being sent NUMEROUS times by the counselor. SOLUTION: All documents should be able to be sent by Email/PDF file so there would be a record of receipt. It would be perfect if Counselor Max and Home Counselor On Line (HCO) could be accessed by the lender in order to pull off the HAMP information.

- The transitions between trial modifications and permanent modifications are not automatic and often untimely which results in a complicated breakdown of the process and often requires the homeowner to start another trial mod or, even worse, precipitates the disqualification of the MHA process entirely. SOLUTION:
  If the bank takes too long to review the modification request and exceeds their deadline date, the homeowner should not be required to resubmit updated financial information or to reapply.

- Banks report to credit bureaus that a homeowner is delinquent with their mortgage payments even when the homeowner is in a trial period and is making payments as agreed. SOLUTION: During the trial modification process, lender/servicers should report "Paid as Agreed" when the homeowner is abiding by the trial period or designate that the homeowner is successfully participating in a HAMP modification program.

- Lack of coordination between Legal, loss mitigation, MHA, collection and the homeownership offices of lenders/servicers creates duplication, confusion, loss documents and misunderstandings of program guidelines and the entire process in general. SOLUTION: The file should coded as a HAMP application or agreement in order to expedite the file through the lender/servicer system until closed. (Ocwen and SPS have a best practice for this issue which seems to be working, i.e. a file is placed on hold for collection and legal activity when a HAMP application is in process).

Katherine L. Broka
President/CEO
Toledo Fair Housing Center
432 N. Superior Street
Toledo, OH 43604
419-243-6163 x18
419-243-3536 Fax

Testimony of
Robert R. Ruckstuhl
President, Performing Investments Corp.

Before the Domestic Policy Subcommittee of the House Committee
On Oversight and Government Reform
February 25th, 2010

Honorable Members:

Thank you for allowing me the opportunity to testify before you on foreclosure related issues and the immediate need for more support to address these ongoing problems. For over four years our paralegal and consulting firm has supported attorneys and law firms locally and across the country that represent homeowners in distress and in foreclosure.

Over this period of time we have experienced diminished cooperation, implementation efficiency and competency of lenders/servicers/investors in the resolution of delinquencies as well as the execution of programs and policies enacted to assist homeowners resolve their delinquency. Simultaneously, these same lenders/servicers/investors have impeded the efforts of homeowners and/or their representatives who have demonstrated genuine ability, capacity and desire to resolve the hardship the homeowner has experienced. This is exacerbated in those cases where lenders/Servicers/Investors blatantly ignore a resolution that clearly makes sense. This fact is supported by the universal behavior of these decision-making entities to: lose or refuse acceptance of Third party Authorizations; losing or refusing to accept complete submitted modification, forbearance, or reinstatement packages; failure or refusal to acknowledge receipt with in legislated time period (10 days); refusal or failure to execute decisions in legislated time period (30 days); and refusal or protracted delay in considering or approving alternative resolutions such as short sale or deed in lieu to delineate the most common examples.

These problems are not the sole experience of legal professional and nonprofit agencies. Many examples of responsible and well-intended homeowners are available to illustrate these issues:

Eric Patton, a City of Cleveland resident was approved for a forbearance plan which was approved in August 2009 and was given an unreasonably short period of time to execute and deliver his agreement. Given the short period of time his counsel sought and secured an extension of time to comply with the terms of the offer. The agreement was delivered within the time allotted along with payment as required by the lender. Upon receipt of the agreement and payment the lender rejected their own agreement but retained the payments. Mr. Patton made two more payments which the lender accepted before the lender sent notice that they rejected the agreement they issued.

The lender then instructed Mr. Patton to resubmit the exact same forbearance request package for reconsideration which was delivered in December. Although the forbearance package resubmission contained the exact same information as the originally approved submission package, the lender rejected the second forbearance plan claiming insufficient income. The lender demanded that Mr. Patton must reduce his expenses to be considered for any future offers, and Mr. Patton has complied by terminating his home phone service, reduced his insurance coverage and reduced food expense by utilizing nonprofit assistance. After submitting for the third time, the revised forbearance package, the lender responded by filing a praecipe for sheriff sale, which is now scheduled for March 22nd 2010. Mr. Patton continues to be at risk of losing his home even though he has proven the ability to repay his delinquency in full, make future payment and comply with the lender every step of the way. Mr. Patton is just one of untold numbers of Greater Clevelanders that are exposed to the failures of programs that lack definitive and compulsory guidelines and results.

Until greater oversight and enforcement are established for government programs and investment in our community, lenders/servicers/investors will not have the motivation to proactively resolve cases such as Mr. Patton.

The impact extends throughout every facet of our community. Our courts are unduly burdened and lack the financial resources and training to adequately compel the lenders/servicer/investors to comply with State and Federal programs and legislation.

Homeowners who are suffering a hardship or dealing with foreclosure are being denied the rights afforded by programs like HAMP, in part, because they are not armed with the knowledge or resources to properly defend themselves. Insufficient funding for nonprofit and outsource services that legally provide the necessary support for homeowners to succeed in resolving these problems is woefully inadequate. The time, knowledge and resources required to negotiate the complex matters of a mortgage problem typically exceed the experience and understanding of the average homeowner.

In conclusion, it is imperative that the common interests of this Committee, the State of Ohio and the Nation be supported with all of the available resources, oversight and enforcement that our Federal Government can commit. Only with this support will our community overcome the overwhelming foreclosure crisis facing us for the foreseeable future.

Testimony of
Kim Gerette Martorana, Esq.
Attorney
Before the Domestic Policy Subcommittee of the House Committee
On Oversight and Government Reform
February 25th, 2010

Honorable Members:

Thank you for the opportunity to testify before you regarding my experience in defending foreclosure lawsuits.

Since 2009, my practice is focused on defending and aiding homeowners who are suffering the plight of mortgage delinquency and all too often the resulting foreclosure action.

I have found the courts to be overburdened. Much of that burden is due to the irresponsible and unscrupulous behavior exhibited by lenders and servicers. On a daily basis the facts related to my clients are, at best, misrepresented by the staffs of these financial service companies and always to the detriment of the homeowner.

Because the actions taken by these lenders and servicers are essentially the same regardless of their respective labels, it appears as though there is a coordinated effort to avoid and/or deter reasonable and sensible resolutions from being executed. These acts range from: 1) claiming to have not received necessary and legally required authorizations and disclosures; and 2) refusal to provide explanations for declining modification, short sale and deed in lieu requests. All too often the poorly trained and less than competent counselors representing the lenders and servicers do not know program requirements such as HAMP and HARP. Exacerbating the situation, these same representatives are almost always unable to provide the reasoning or basis for declining requests. In a recent conversation with a U.S. Bank vice-president based in Cincinnati Ohio it was admitted that she was unaware of the critical data necessary to perform the HAMP waterfall Net Present Value (NPV) calculation. U.S. Bank refused to provide their own employee, or me, with the Internal Rate of Return (IRR) used to determine the outcome of the NPV analysis. Without that data it is impossible to appeal a decision or adequately defend the homeowner.

As stated previously these issues are not isolated. Rarely if ever have the lender's counsel attended a court ordered mediation hearing or settlement conference with the authority to negotiate or commit to any resolution. Rather, these hearings act as little more than a status conference whereby the lender-servicer moves forward with impunity at the expense of the court's time and the homeowner's rights.

What is needed now is a commitment from the government to deliver resources to long suffering states such as Ohio by providing the financial support and regulatory enforcement crucial to our nation's future. Our courts need additional funding to provide the training and technology to respond timely and effectively to the ongoing foreclosure crisis. Homeowners need to be able to access support from legal aide, housing counselors and legitimate legal representation. Homeowners must to be able to confidently obtain effective help from local government, nonprofit agencies and attorneys. Legislation and enforcement must be enacted to eliminate the opportunity for predators to defraud vulnerable homeowners. Such legislation must be strong enough to deter the brazen efforts of predatory organizations that are soliciting unsophisticated homeowners without impeding the ability to attain fair and competent legal representation.

Kim Gerette Martorana
Martorana Legal Services
11289 Stafford Road
Auburn, OH 44023
(440) 729-1000

States' "Seriously Delinquent" Loans (Q409) vs. All HAMP Modifications (1/31/10) Ranked by HAMP Impact

	State	All HAMP Mods	4Q09 Seriously Delinquent Loans	Percent Ser. Del. Loans HAMP-Modified
1	Rhode Island	4,444	12,880	34.50%
2	New Hampshire	4,232	12,523	33.79%
3	Maryland	31,186	97,900	31.86%
4	Massachusetts	21,435	67,612	31.70%
5	Arizona	47,438	152,874	31.03%
6	Minnesota	17,943	61,041	29.39%
7	Virginia	23,919	81,442	29.37%
8	Connecticut	12,120	42,013	28.85%
9	Oregon	10,885	39,498	27.56%
10	District of Columbia	1,729	6,275	27.55%
11	California	191,641	721,735	26.55%
12	Delaware	3,095	11,857	26.10%
13	Utah	8,134	31,351	25.94%
14	Illinois	49,873	192,412	25.92%
15	Washington	18,835	72,889	25.84%
16	Hawaii	3,327	13,693	24.30%
17	Nevada	25,052	103,501	24.20%
18	New York	42,483	176,573	24.06%
19	New Jersey	31,615	131,575	24.03%
20	Montana	1,278	5,378	23.76%
21	Georgia	37,567	162,991	23.05%
22	Colorado	13,505	58,670	23.02%
23	North Carolina	20,041	89,945	22.28%
24	Missouri	11,807	53,071	22.25%
25	Maine	2,538	11,608	21.86%
26	Wisconsin	9,587	44,648	21.47%
27	New Mexico	3,402	15,886	21.41%
28	Pennsylvania	21,910	104,462	20.97%
29	Vermont	691	3,309	20.88%
30	Michigan	32,000	153,379	20.86%
31	West Virginia	1,665	8,101	20.55%
32	South Carolina	10,387	51,037	20.35%
33	Idaho	3,843	18,910	20.32%
34	Wyoming	513	2,591	19.80%
35	Alaska	539	2,823	19.09%
36	Tennessee	10,790	60,739	17.76%
37	Texas	31,832	184,153	17.29%
38	Mississippi	3,887	22,839	17.02%
39	Nebraska	1,553	9,161	16.95%
40	Kansas	2,924	17,555	16.66%
41	Florida	116,569	701,479	16.62%
42	Alabama	6,630	40,443	16.39%
43	North Dakota	237	1,458	16.26%
44	Louisiana	5,825	36,320	16.04%
45	South Dakota	448	2,848	15.73%
46	Arkansas	2,692	17,190	15.66%
47	Iowa	3,065	19,598	15.64%
48	Ohio	20,980	141,329	14.84%
49	Kentucky	4,100	30,299	13.53%
50	Indiana	10,471	79,567	13.16%
51	Oklahoma	3,011	25,355	11.88%

Sources: MBA, Q409 National Delinquency Survey;
Making Home Affordable Program
"Servicer Performance Report Through Januar 2010"

Prepared by: Cuyahoga County Foreclosure Prevention Program

HAMP and Ohio

This table combines two nationally aggregated data sets in an effort to measure the relative effectiveness of the HAMP mortgage modification program in each state. What the table demonstrates is that there is a huge disparity between the states in how well HAMP is working to ameliorate the foreclosure crisis. In the most successful state, Rhode Island (34.5%), the HAMP program has been nearly three times more effective than in the lowest performing state, Oklahoma (11.88%).

Ohio (14.84%) continues to rank down at 48th among the 50 states and the District of Columbia in HAMP effectiveness.

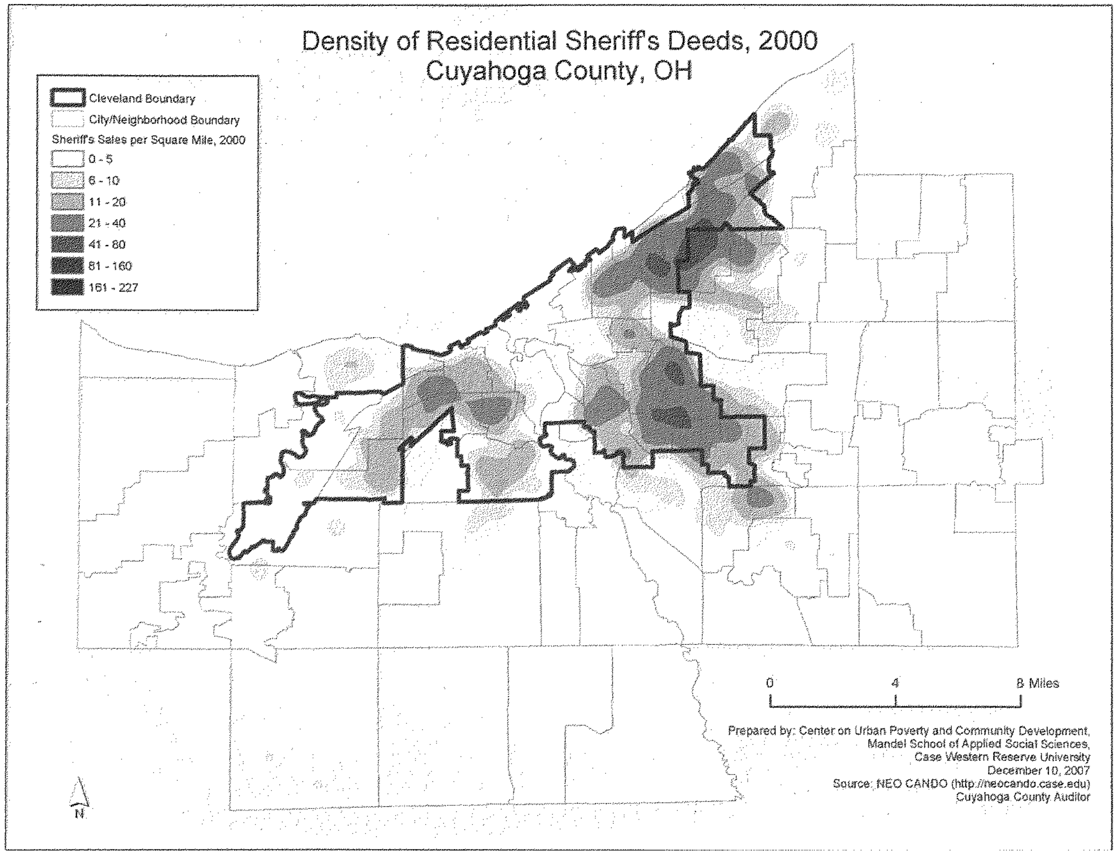
The column "All HAMP Mods" lists the state-level breakouts for active trial and permanent loan modifications through January of 2010, under the Home Affordable Modification Program (HAMP). These numbers are taken from the recently released "Servicer Performance Report" prepared by the Treasury Department.

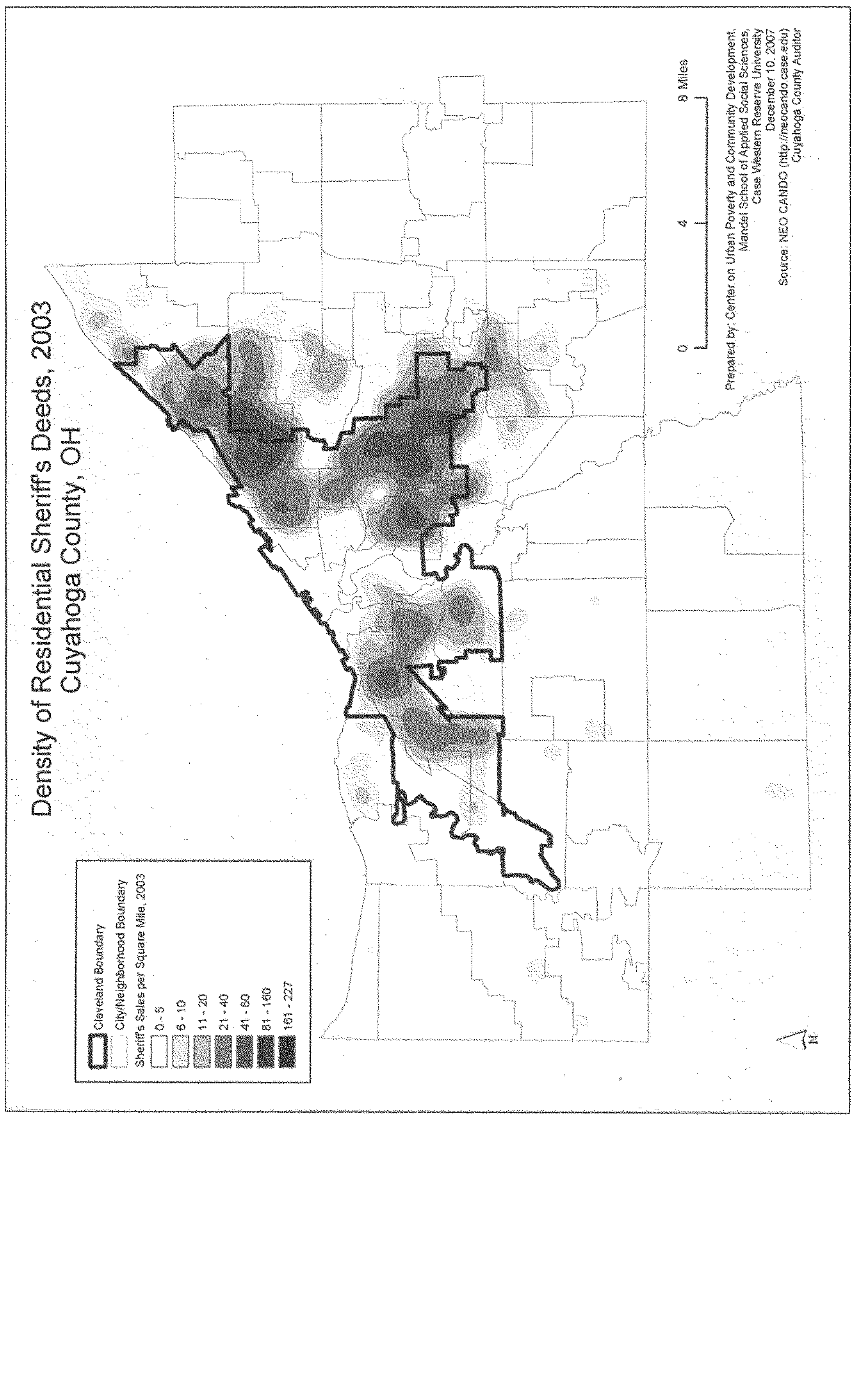
The column "4Q09 Seriously Delinquent Loans" breaks out the number of loans that are 90 days or more delinquent and the foreclosure inventory, by state, as aggregated in the most recent National Delinquency Survey, the benchmark report released every quarter since 1979 by the Mortgage Bankers Association. This is a generally accepted, standardized measure of loans that are in serious trouble, but not yet legally forfeited---the most likely and urgent candidates for HAMP intervention.

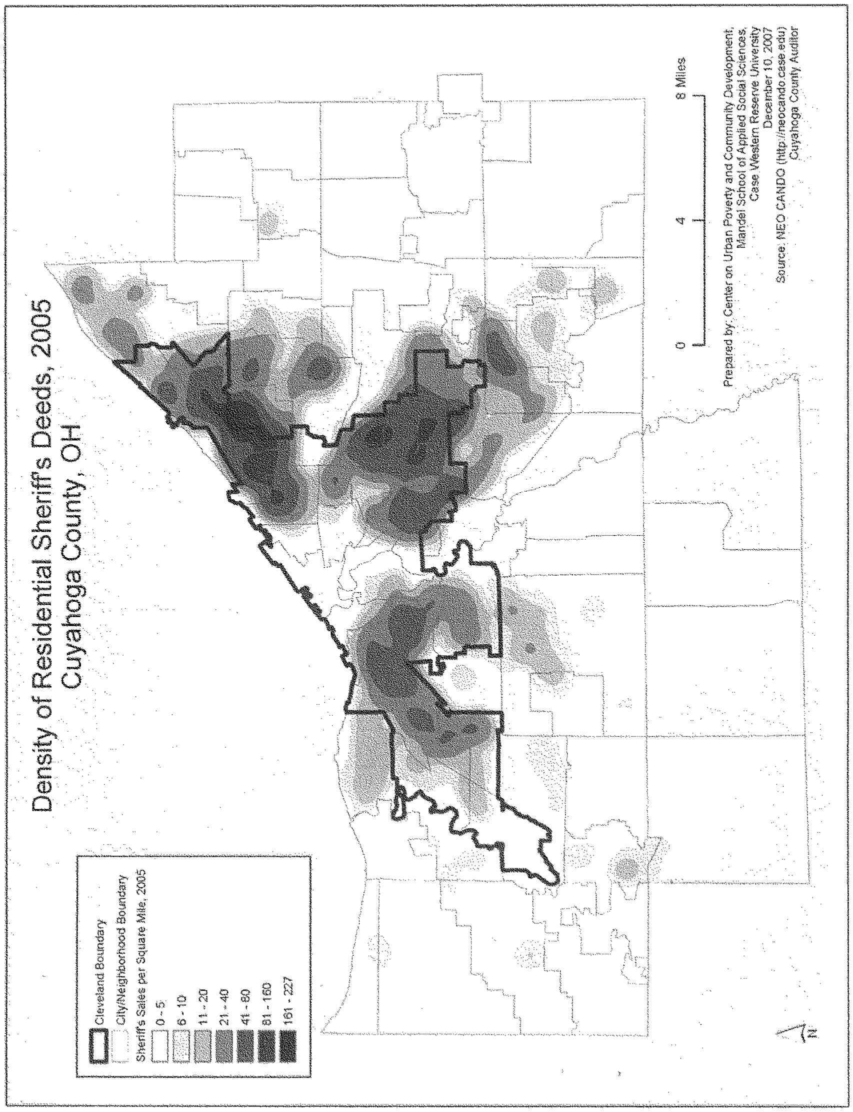
Finally, "Percent Ser. Del. Loans HAMP-Modified" reports the ratio of HAMP modifications over seriously delinquent loans. The higher the resulting percentage, the higher the proportion of troubled loans that have been addressed by the HAMP program. That there are such huge disparities between the states argues for a complete revamping of the HAMP program as it clearly fails to meet the needs of some of the most severely foreclosure-afflicted states.

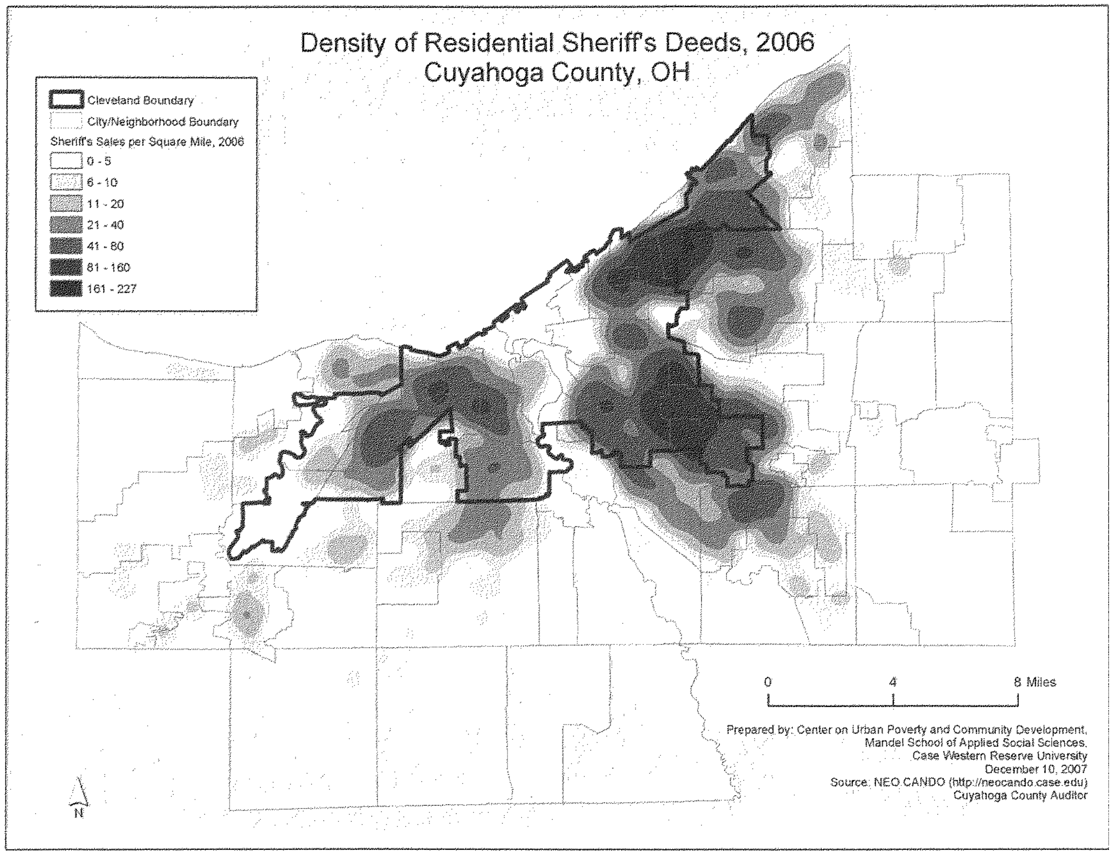
We feel that this table demonstrates that so long as the success of HAMP relies primarily upon the discretionary efforts of the mortgage servicing industry and ducks the crucial issue of loan principle reduction, it will continue to fail the states in greatest need.

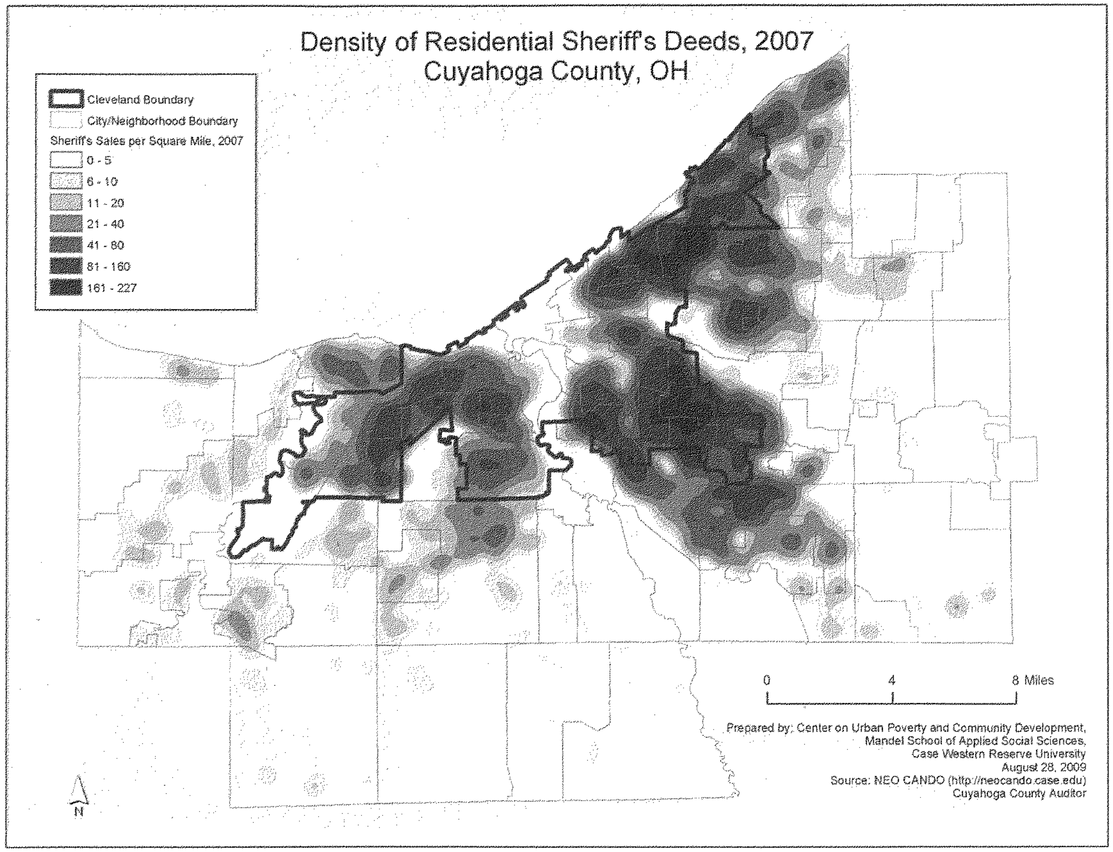
Cuyahoga
COUNTY OF OHIO

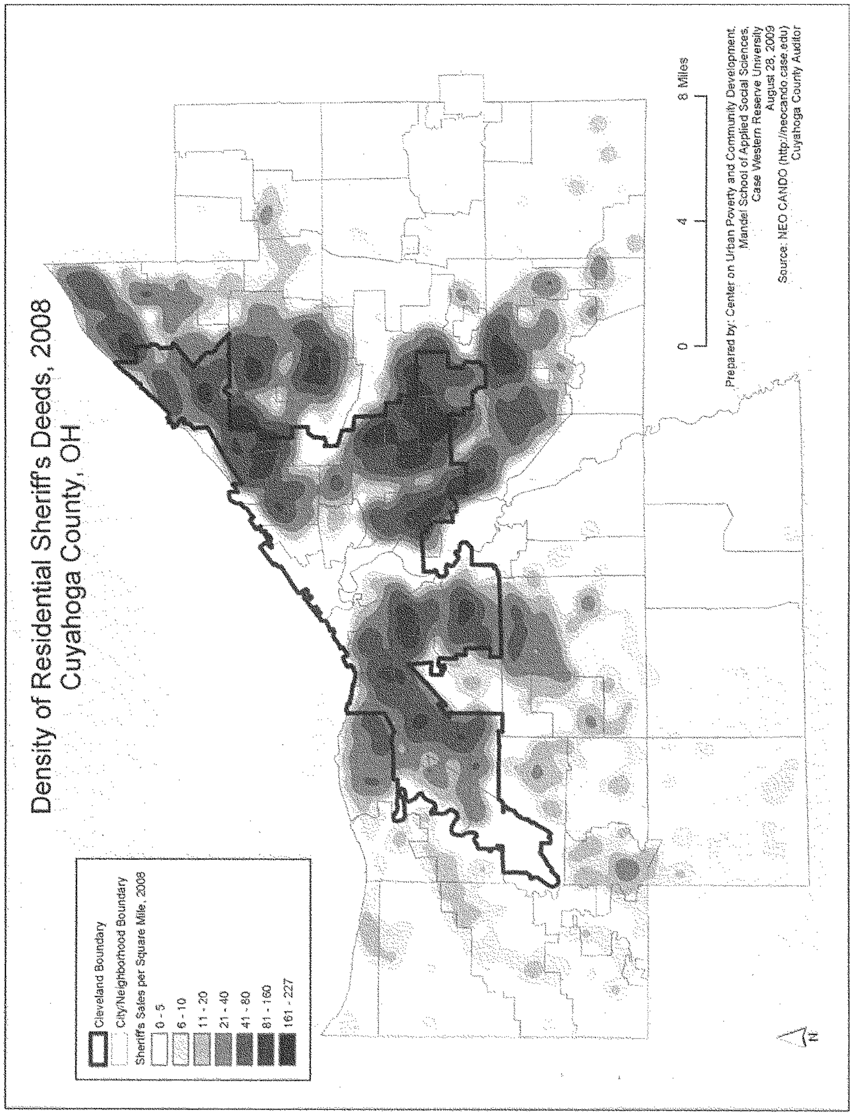

Density of Residential Sheriff's Deeds, 2000
Cuyahoga County, OH
Cleveland Boundary
City/Neighborhood Boundary
Sheriff's Sales per Square Mile, 2000
0 - 5
6 - 10
11 - 20
21 - 40
41 - 80
81 - 160
161 - 227
0
4
8 Miles
Prepared by: Center on Urban Poverty and Community Development,
Mandel School of Applied Social Sciences,
Case Western Reserve University
December 10, 2007
Source: NEO CANDO (http://neocando.case.edu)
Cuyahoga County Auditor
N

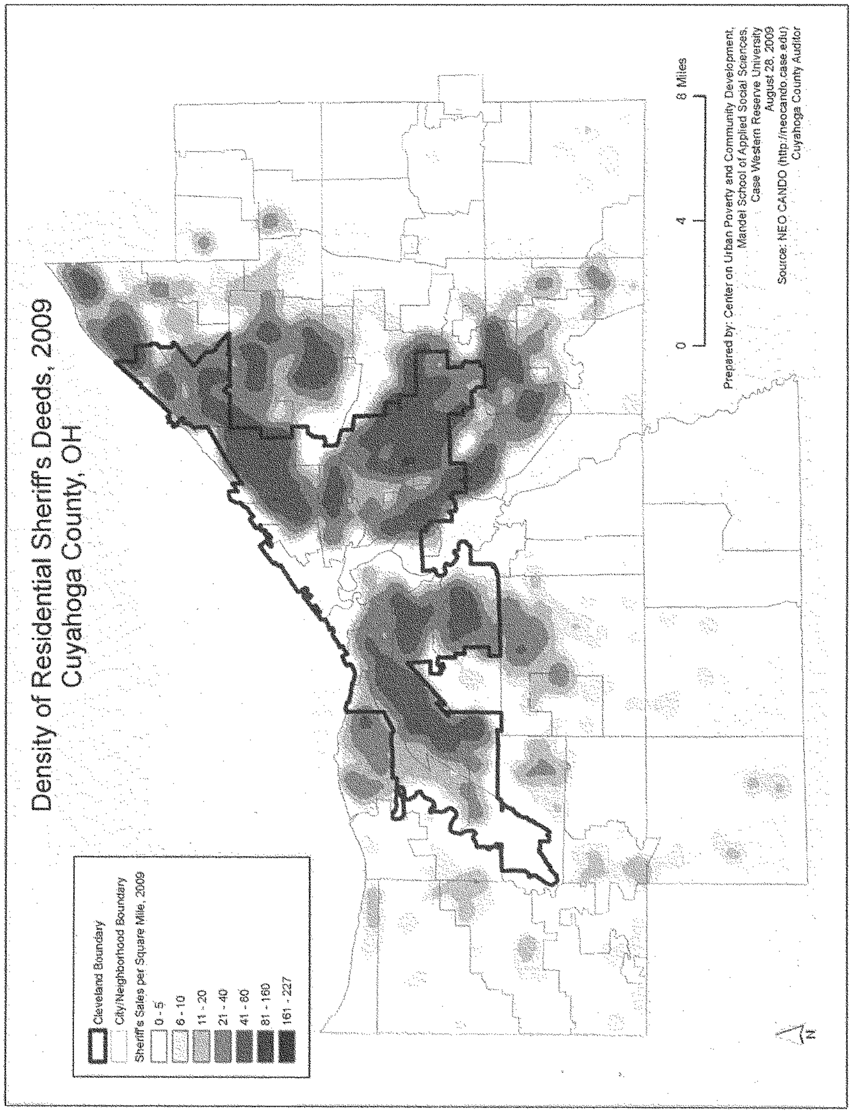

Density of Residential Sheriff's Deeds, 2003
Cuyahoga County, OH
Cleveland Boundary
City/Neighborhood Boundary
Sheriff's Sales per Square Mile, 2003
0 - 5
6 - 10
11 - 20
21 - 40
41 - 80
81 - 160
161 - 227
0
4
8 Miles
N
Prepared by: Center on Urban Poverty and Community Development,
Mandel School of Applied Social Sciences,
Case Western Reserve University
December 10, 2007
Source: NEO CANDO (http://neocando.case.edu)
Cuyahoga County Auditor

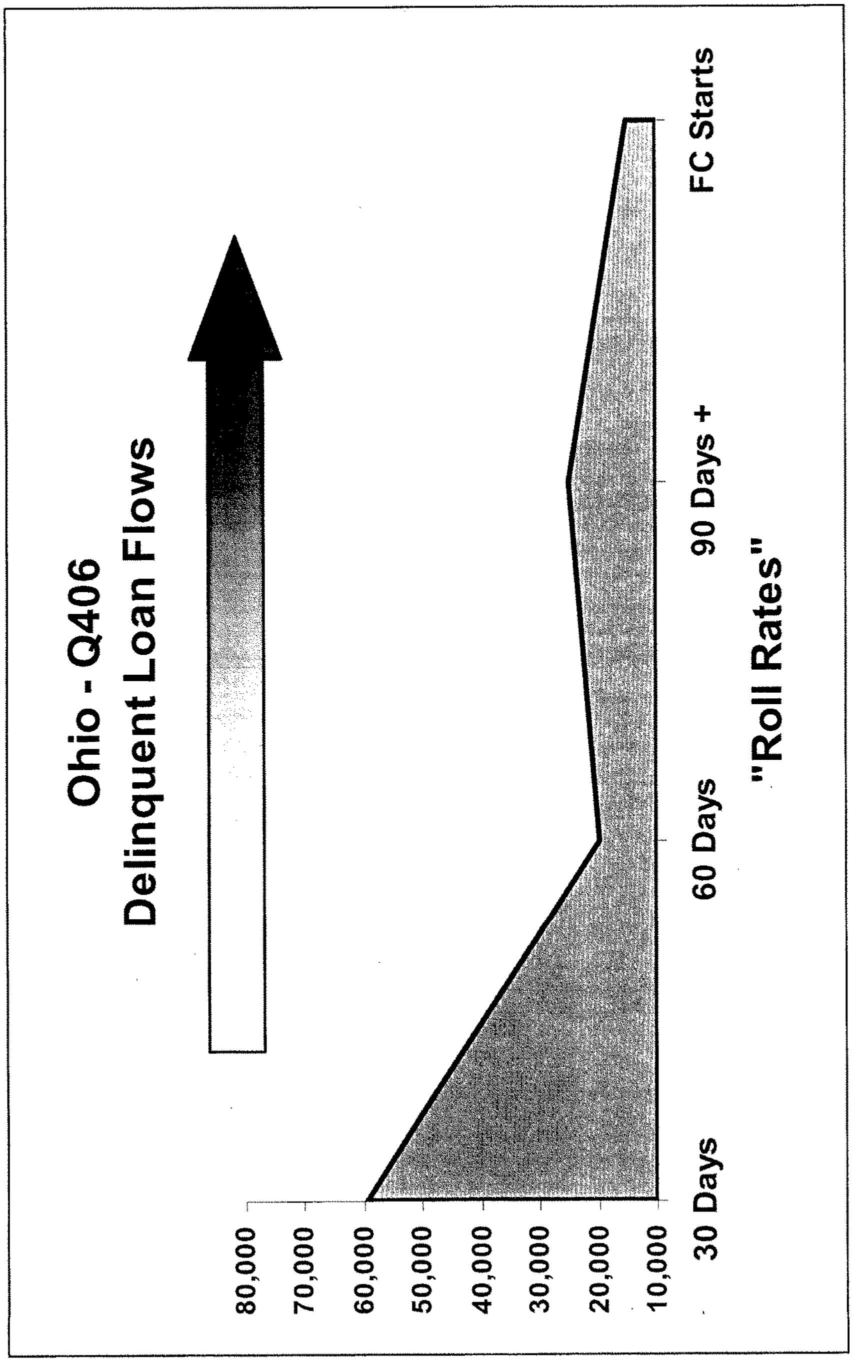

Density of Residential Sheriff's Deeds, 2005
Cuyahoga County, OH
Cleveland Boundary
City/Neighborhood Boundary
Sheriff's Sales per Square Mile, 2005
0 - 5
6 - 10
11 - 20
21 - 40
41 - 80
81 - 160
161 - 227
0
4
8 Miles
Prepared by: Center on Urban Poverty and Community Development,
Mandel School of Applied Social Sciences,
Case Western Reserve University
December 10, 2007
Source: NEO CANDO (http://neocando.case.edu)
Cuyahoga County Auditor
N

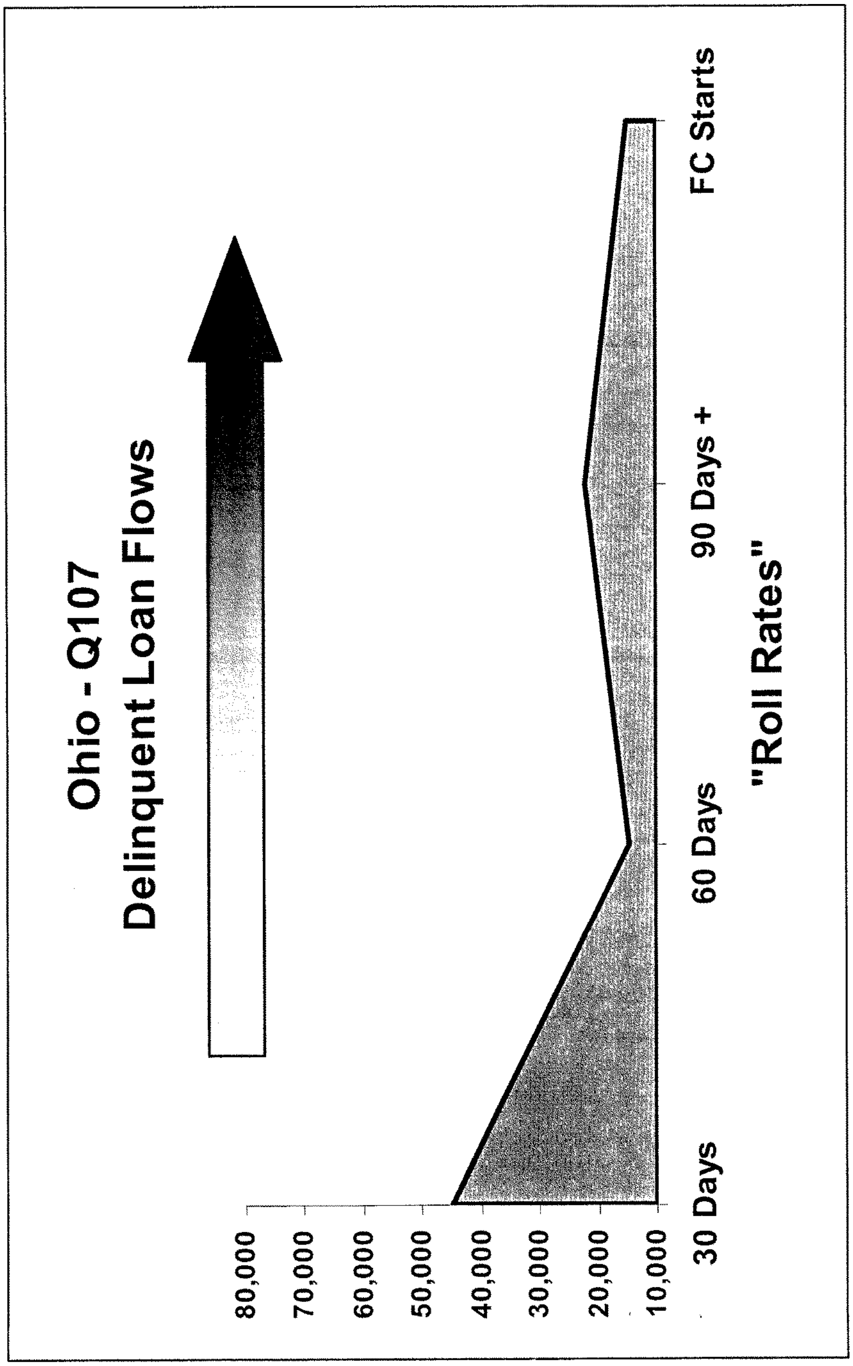

Density of Residential Sheriff's Deeds, 2006
Cuyahoga County, OH
Cleveland Boundary
City/Neighborhood Boundary
Sheriff's Sales per Square Mile, 2006
0 - 5
6 - 10
11 - 20
21 - 40
41 - 80
81 - 160
161 - 227
0
4
8 Miles
Prepared by: Center on Urban Poverty and Community Development,
Mandel School of Applied Social Sciences,
Case Western Reserve University
December 10, 2007
Source: NEO CANDO (http://neocando.case.edu)
Cuyahoga County Auditor
N

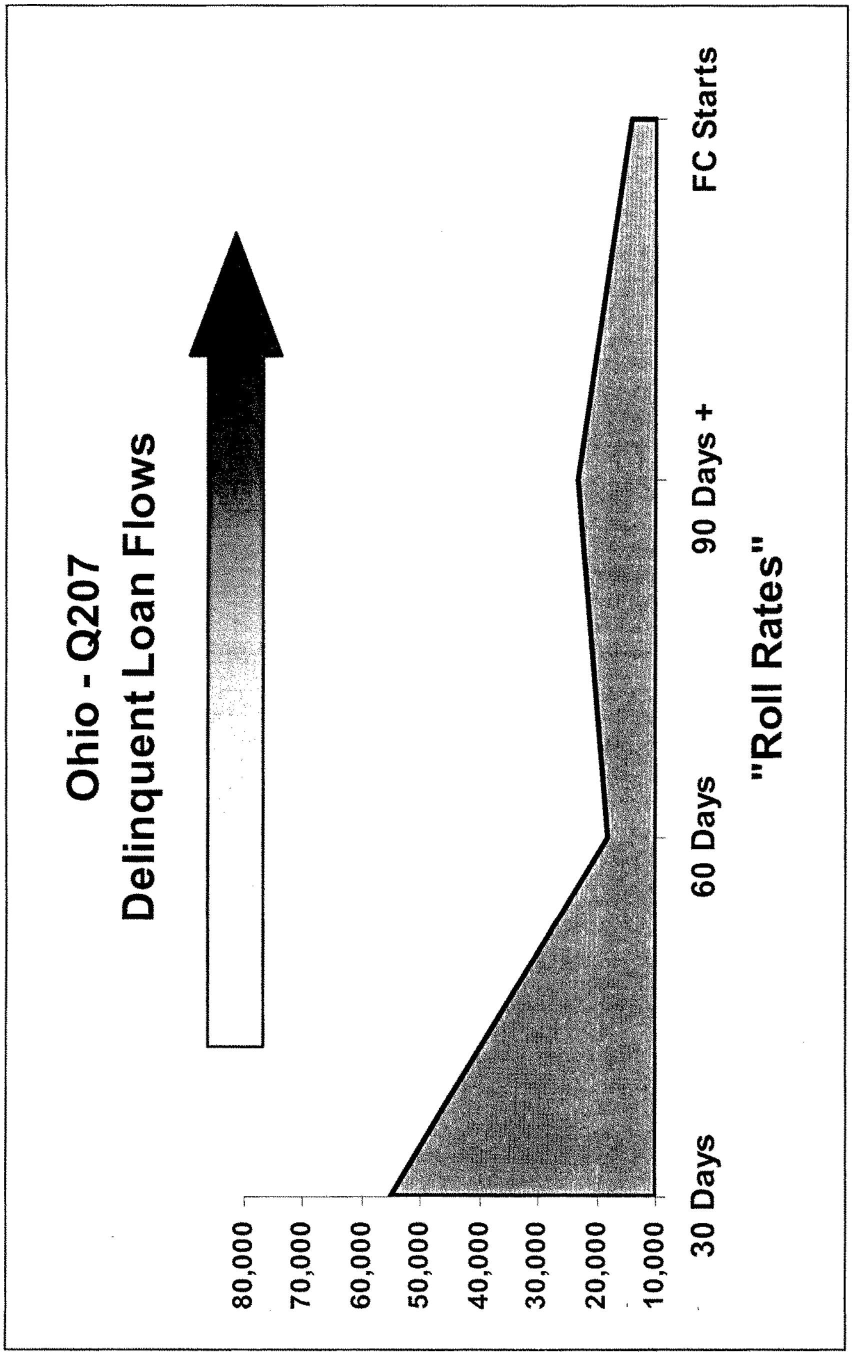

Density of Residential Sheriff's Deeds, 2007
Cuyahoga County, OH
Cleveland Boundary
City/Neighborhood Boundary
Sheriff's Sales per Square Mile, 2007
0 - 5
6 - 10
11 - 20
21 - 40
41 - 80
81 - 160
161 - 227
0
4
8 Miles
Prepared by: Center on Urban Poverty and Community Development,
Mandel School of Applied Social Sciences,
Case Western Reserve University
August 28, 2009
Source: NEO CANDO (http://neocando.case.edu)
Cuyahoga County Auditor
N


Density of Residential Sheriff's Deeds, 2008
Cuyahoga County, OH
Cleveland Boundary
City/Neighborhood Boundary
Sheriff's Sales per Square Mile, 2008
0 - 5
6 - 10
11 - 20
21 - 40
41 - 80
81 - 160
161 - 227
0
4
8 Miles
Prepared by: Center on Urban Poverty and Community Development,
Mandel School of Applied Social Sciences,
Case Western Reserve University
August 28, 2009
Source: NEO CANDO (http://neocando.case.edu)
Cuyahoga County Auditor
N

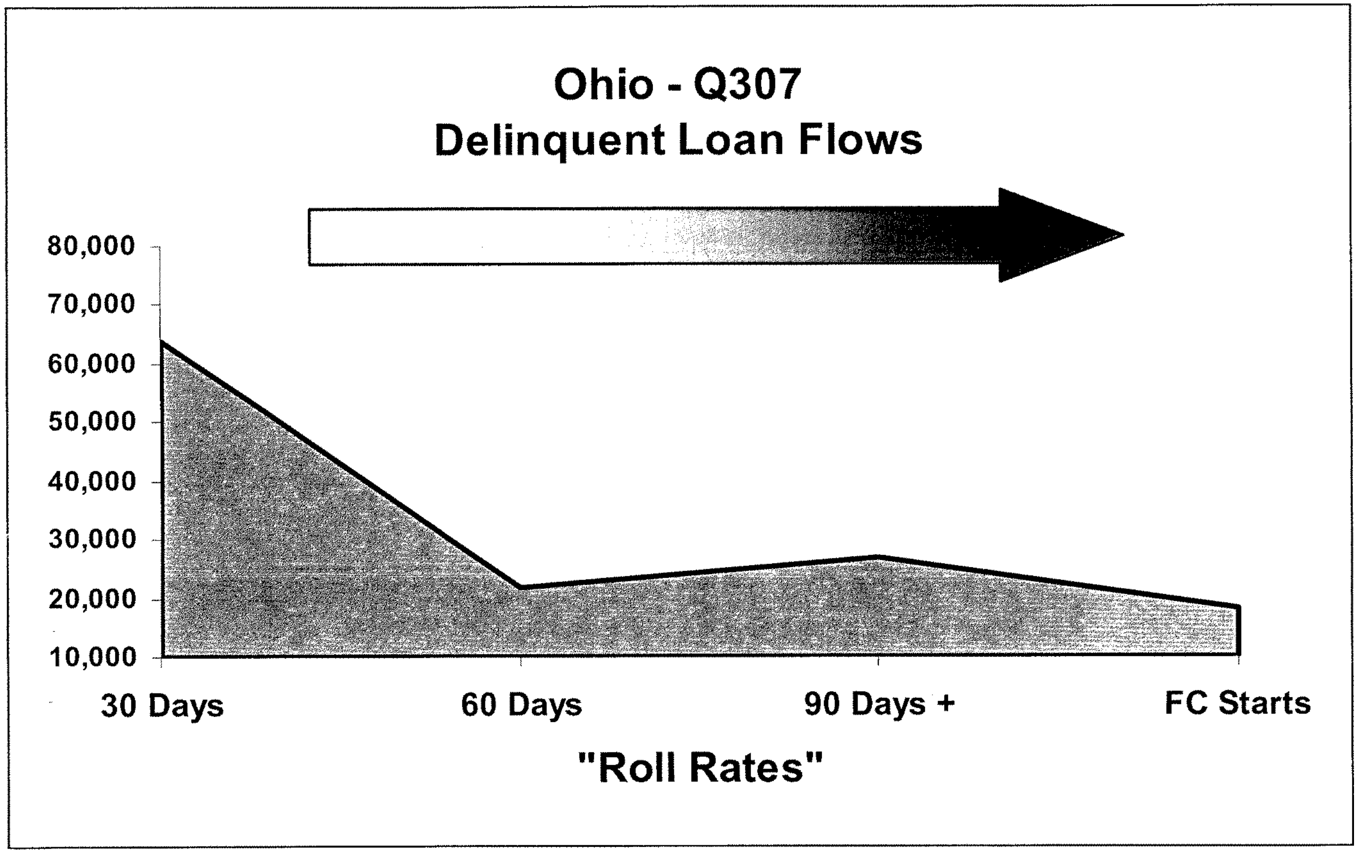

Density of Residential Sheriff's Deeds, 2009
Cuyahoga County, OH
Cleveland Boundary
City/Neighborhood Boundary
Sheriff's Sales per Square Mile, 2009
0 - 5
6 - 10
11 - 20
21 - 40
41 - 80
81 - 160
161 - 227
0
4
8 Miles
Prepared by: Center on Urban Poverty and Community Development,
Mandel School of Applied Social Sciences,
Case Western Reserve University
August 28, 2009
Source: NEO CANDO (http://neocando.case.edu)
Cuyahoga County Auditor
N

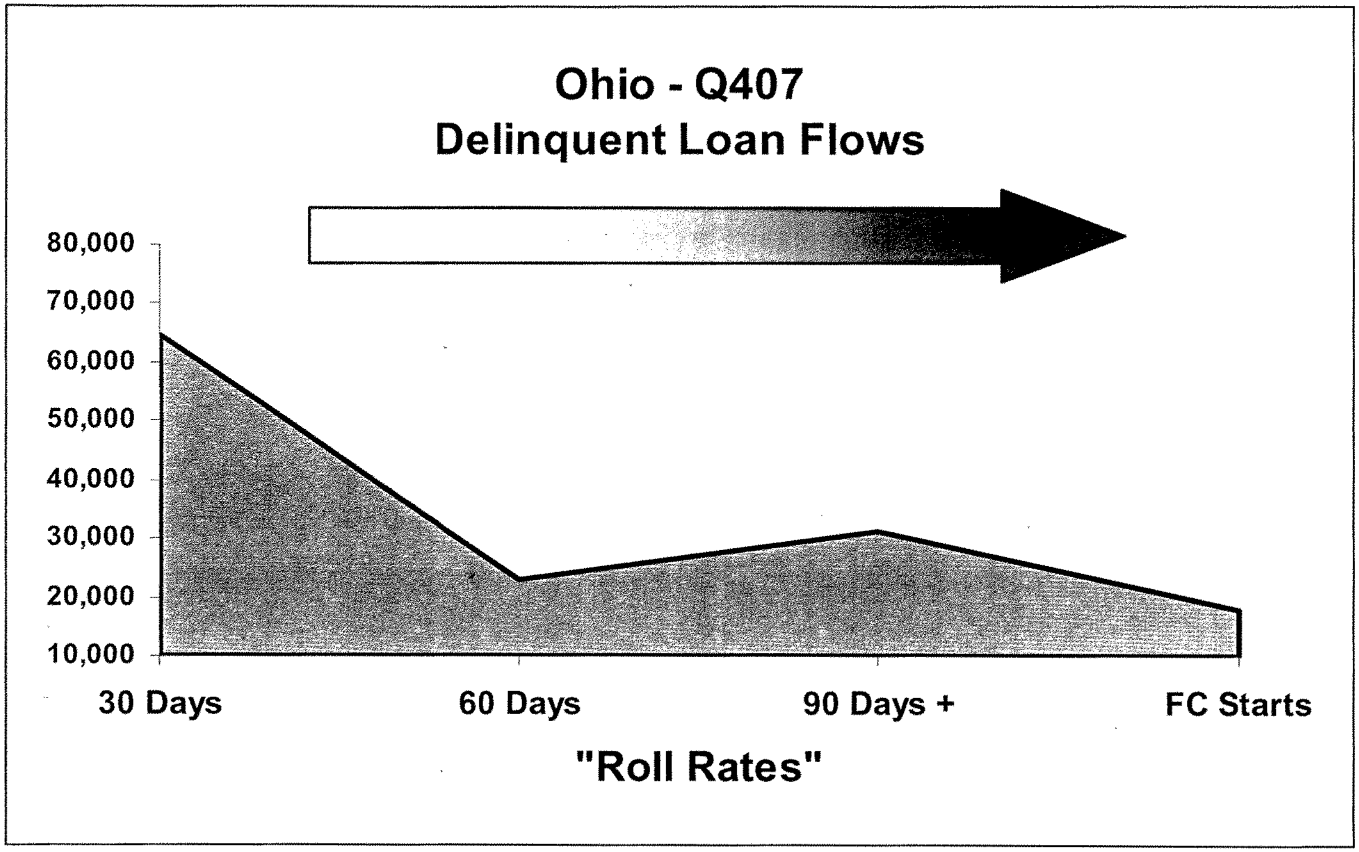

Ohio - Q406
Delinquent Loan Flows
80,000
70,000
60,000
50,000
40,000
30,000
20,000
10,000
30 Days
60 Days
90 Days +
FC Starts
"Roll Rates"

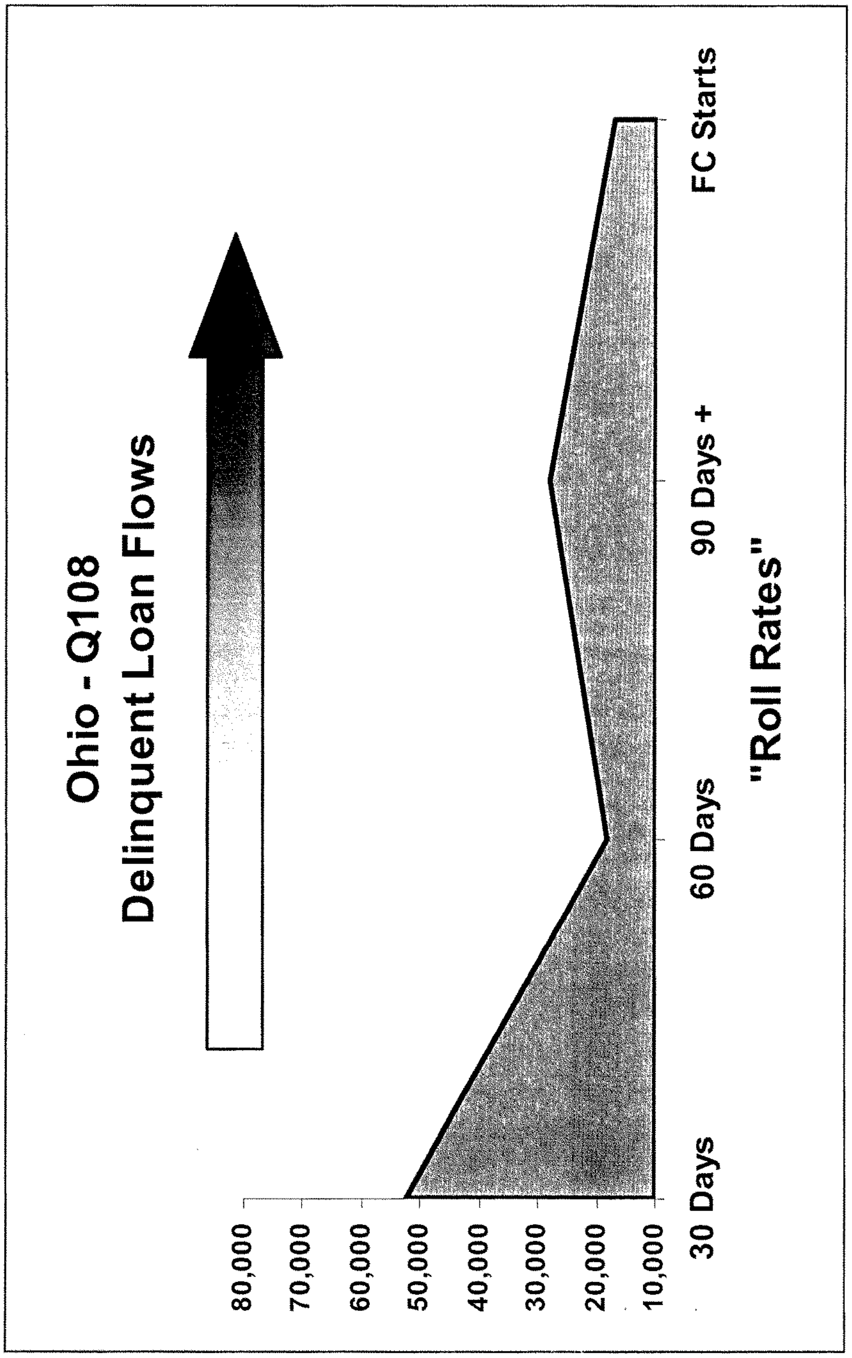

Ohio - Q107
Delinquent Loan Flows
80,000
70,000
60,000
50,000
40,000
30,000
20,000
10,000
30 Days
60 Days
90 Days +
FC Starts
"Roll Rates"

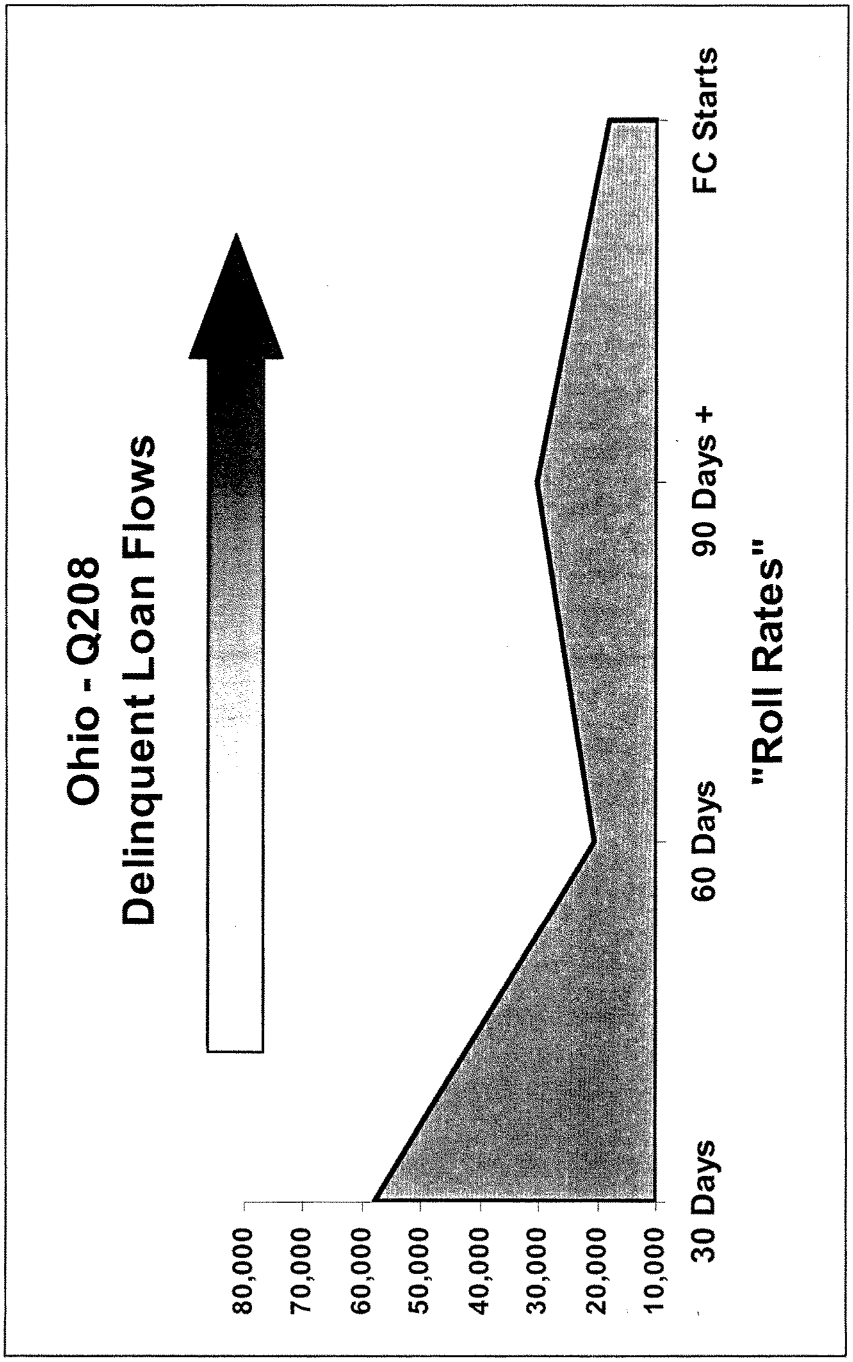


Ohio - Q207
Delinquent Loan Flows
80,000
70,000
60,000
50,000
40,000
30,000
20,000
10,000
30 Days
60 Days
90 Days +
FC Starts
"Roll Rates"

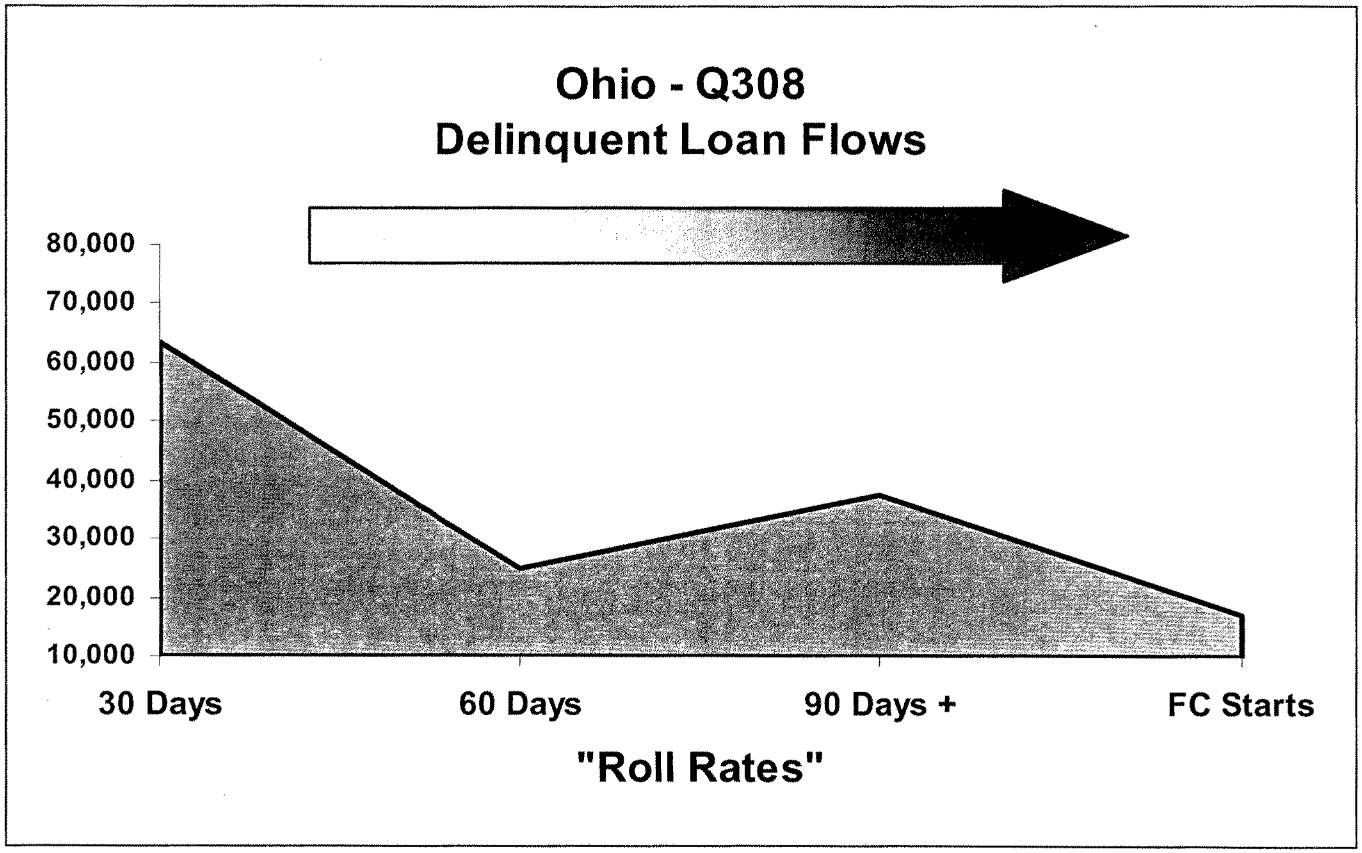

Ohio - Q307
Delinquent Loan Flows
80,000
70,000
60,000
50,000
40,000
30,000
20,000
10,000
30 Days
60 Days
90 Days +
FC Starts
"Roll Rates"

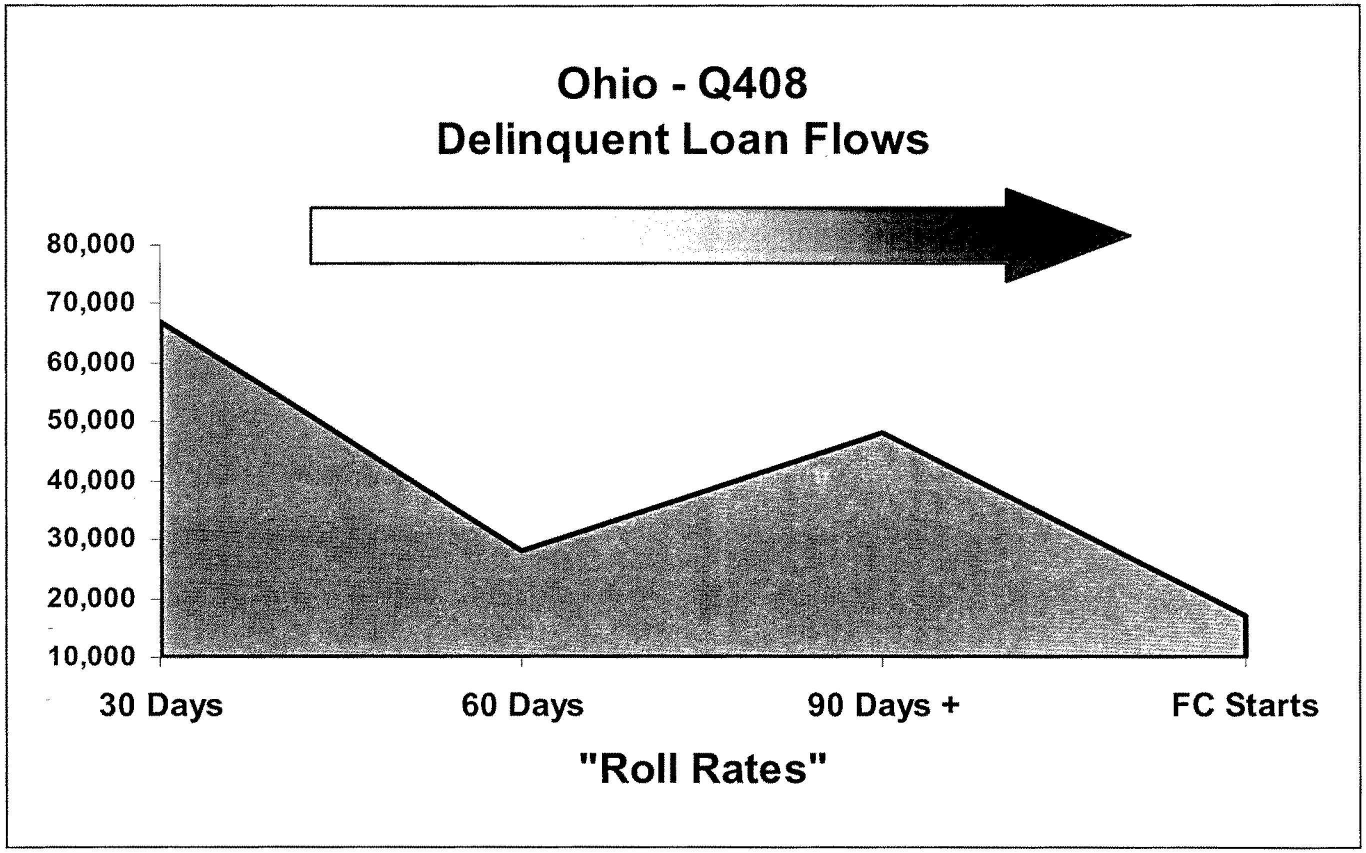

Ohio - Q407
Delinquent Loan Flows
80,000
70,000
60,000
50,000
40,000
30,000
20,000
10,000
30 Days
60 Days
90 Days +
FC Starts
"Roll Rates"

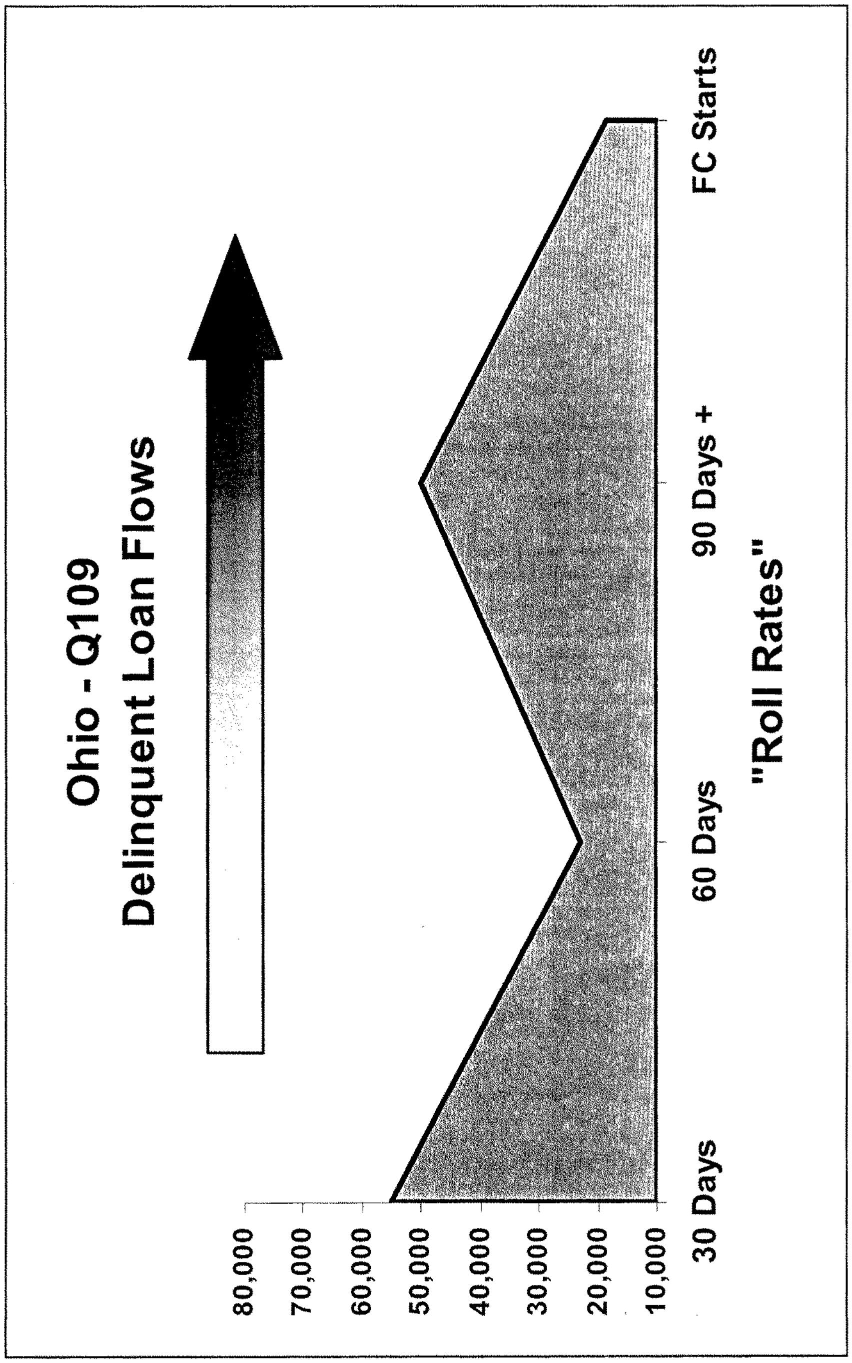

Ohio - Q108
Delinquent Loan Flows
80,000
70,000
60,000
50,000
40,000
30,000
20,000
10,000
30 Days
60 Days
90 Days +
FC Starts
"Roll Rates"



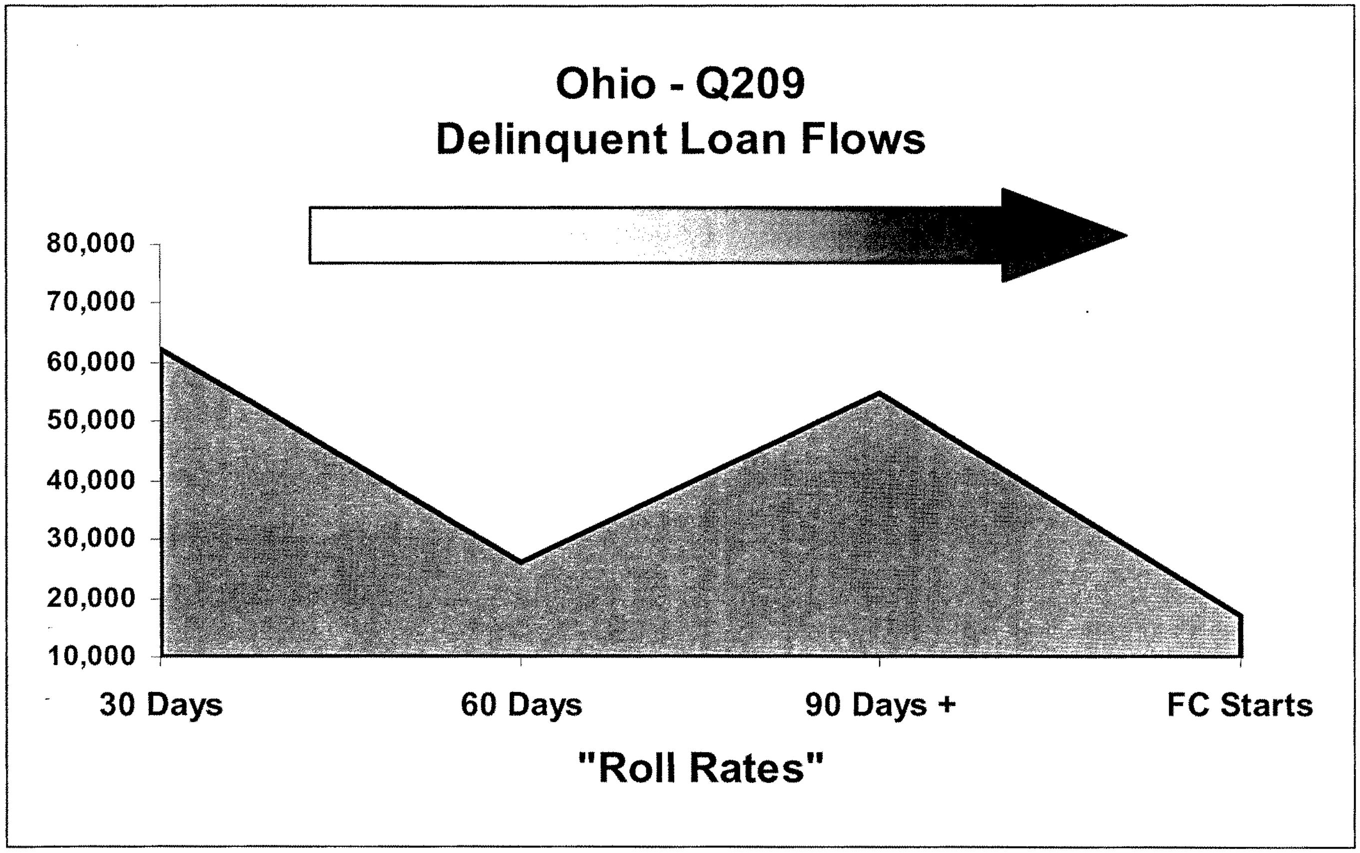
Ohio - Q208
Delinquent Loan Flows
80,000
70,000
60,000
50,000
40,000
30,000
20,000
10,000
30 Days
60 Days
90 Days +
FC Starts
"Roll Rates"

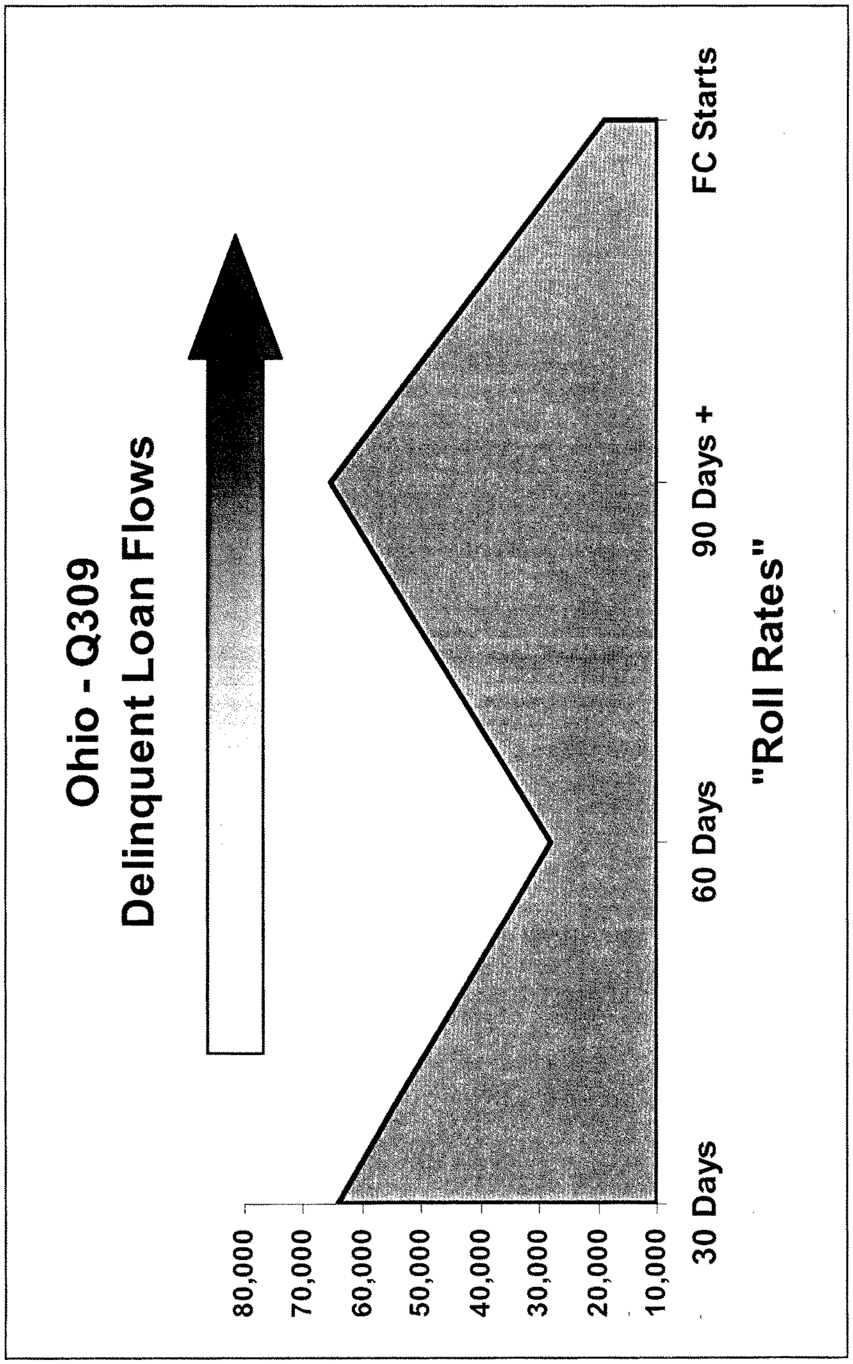

Ohio - Q308
Delinquent Loan Flows
80,000
70,000
60,000
50,000
40,000
30,000
20,000
10,000
30 Days
60 Days
90 Days +
FC Starts
"Roll Rates"


Ohio - Q408
Delinquent Loan Flows
80,000
70,000
60,000
50,000
40,000
30,000
20,000
10,000
30 Days
60 Days
90 Days +
FC Starts
"Roll Rates"

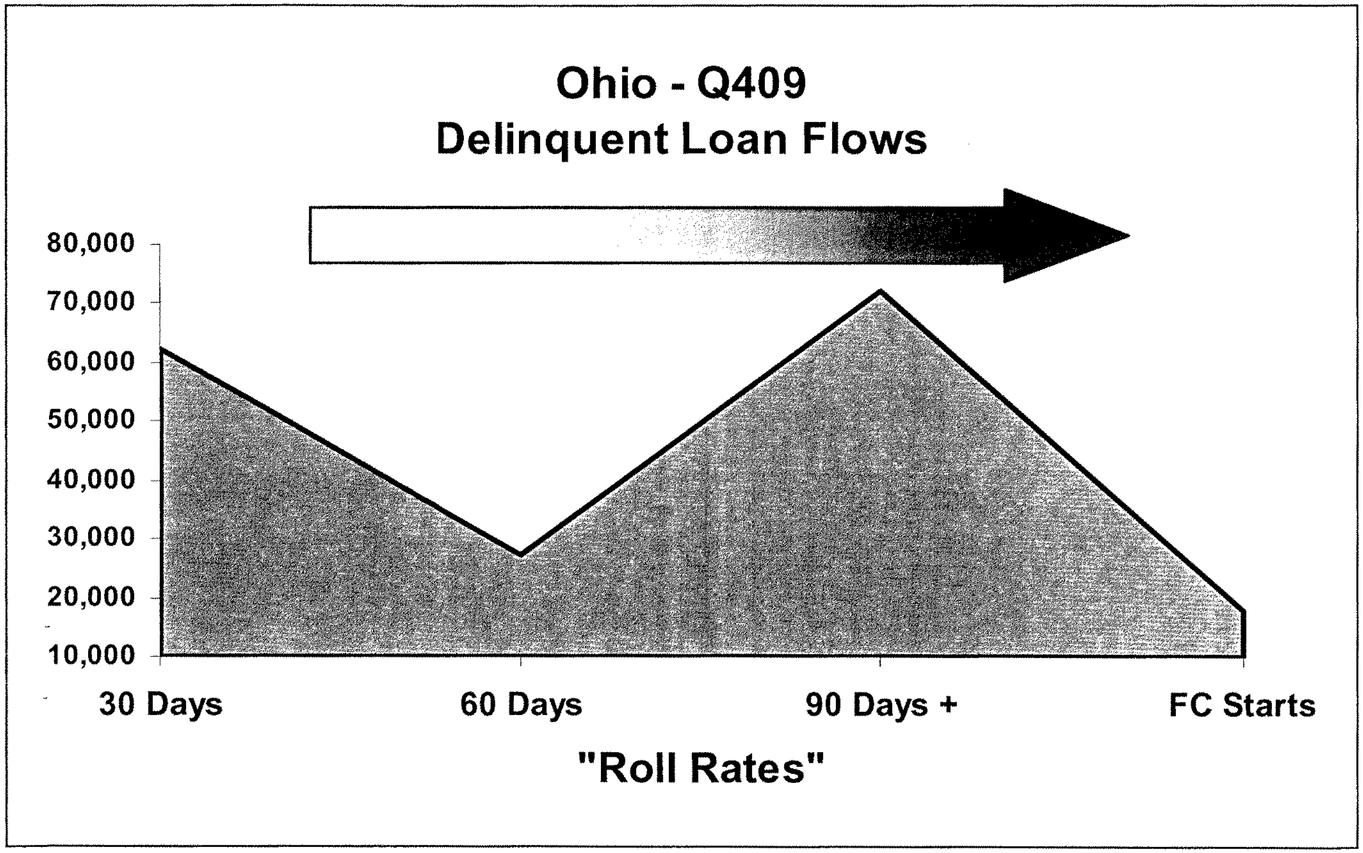


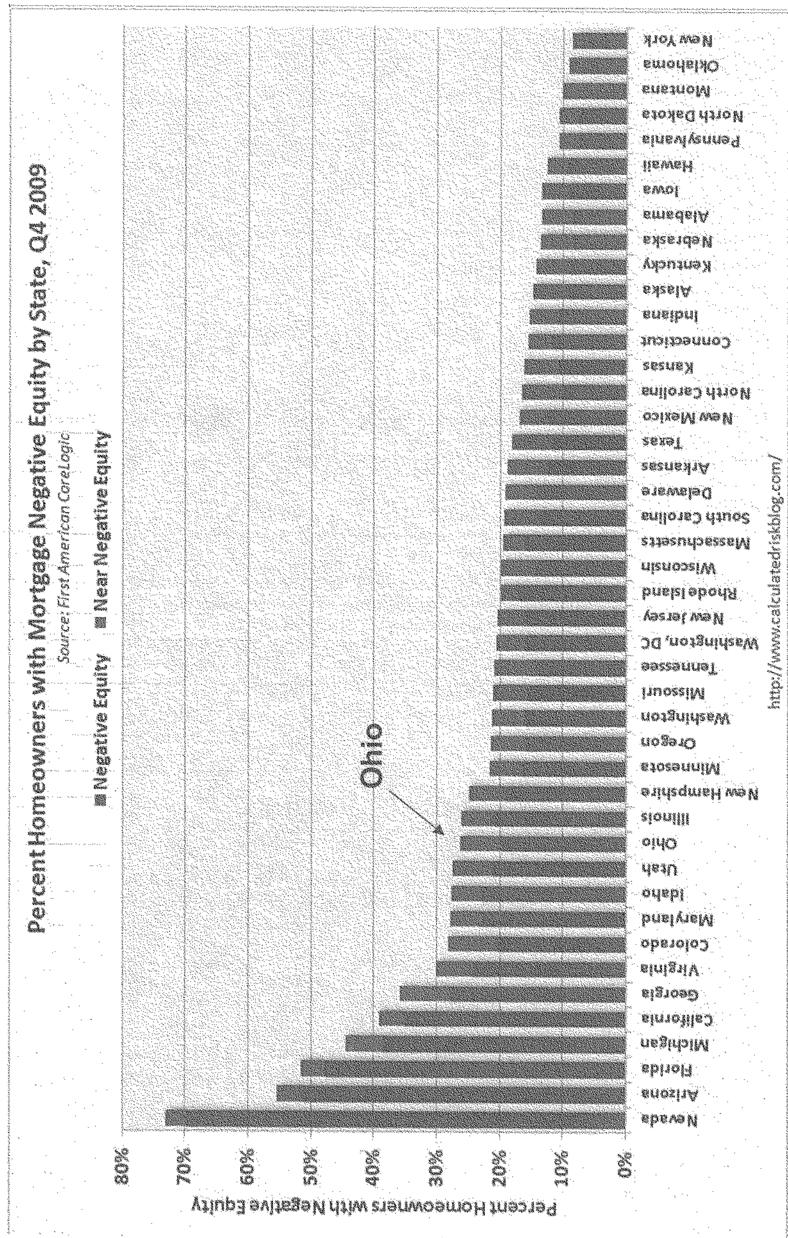
Ohio - Q109
Delinquent Loan Flows
80,000
70,000
60,000
50,000
40,000
30,000
20,000
10,000
30 Days
60 Days
90 Days +
FC Starts
"Roll Rates"


Ohio - Q209
Delinquent Loan Flows
80,000
70,000
60,000
50,000
40,000
30,000
20,000
10,000
30 Days
60 Days
90 Days +
FC Starts
"Roll Rates"



Ohio - Q309
Delinquent Loan Flows
80,000
70,000
60,000
50,000
40,000
30,000
20,000
10,000
30 Days
60 Days
90 Days +
FC Starts
"Roll Rates"

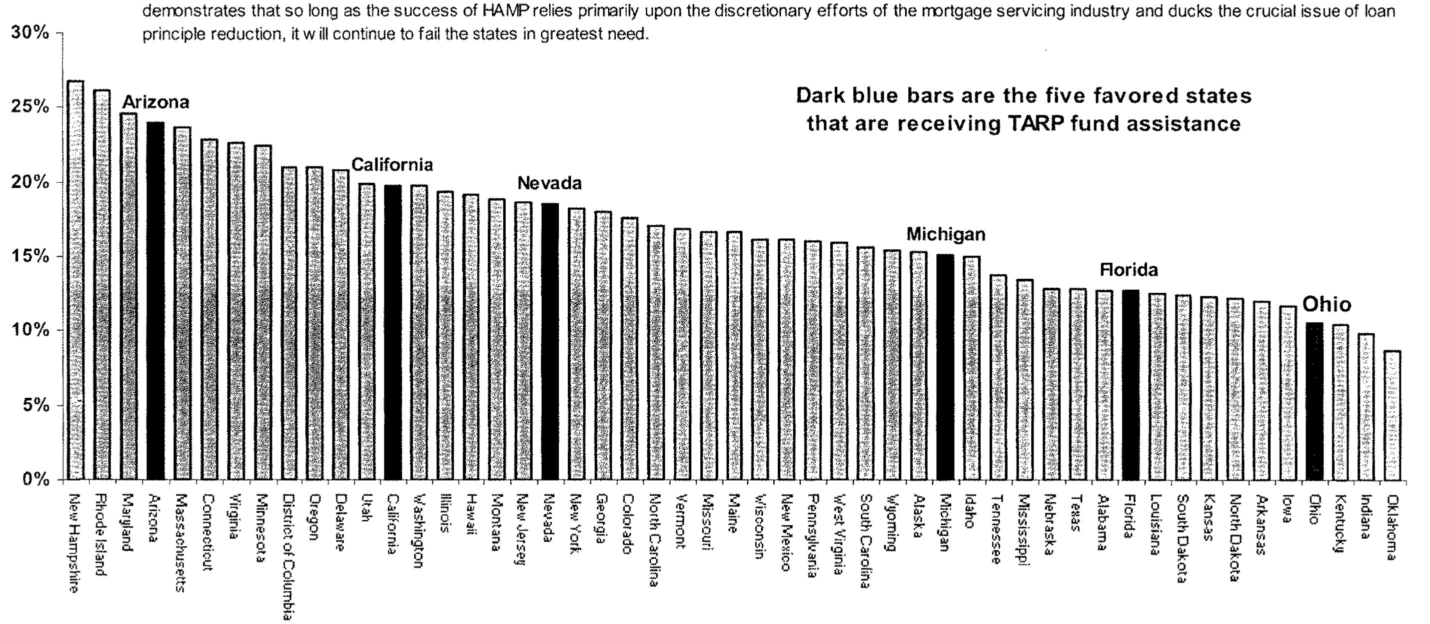

Ohio - Q409
Delinquent Loan Flows
80,000
70,000
60,000
50,000
40,000
30,000
20,000
10,000
30 Days
60 Days
90 Days +
FC Starts
"Roll Rates"



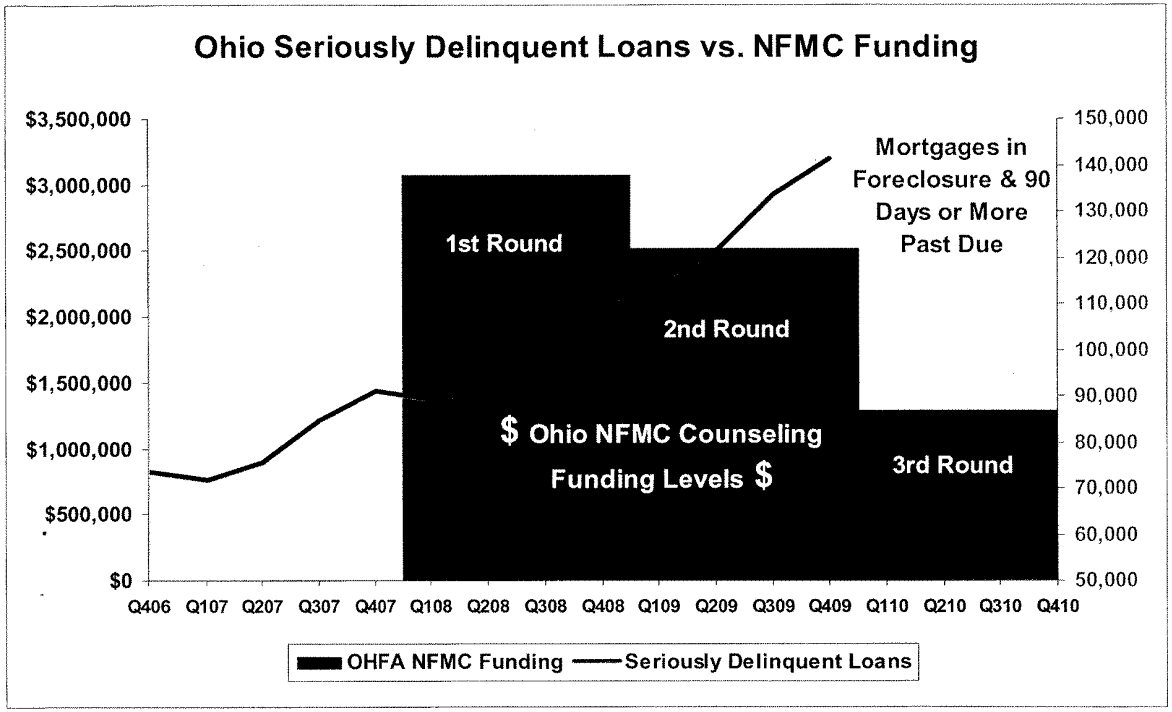
4th Q 2009 CoreLogic Negative Equity Rankings

Percent of Seriously Delinquent Loans Modified Under the HAMP Program, by State

The higher the percentage, the higher the proportion of troubled loans that have been addressed by the HAMP program. That there are such huge disparities between the states argues for a complete revamping of the HAMP program as it clearly fails to meet the needs of some of the most severely foreclosure-afflicted states. This graph demonstrates that so long as the success of HAMP relies primarily upon the discretionary efforts of the mortgage servicing industry and ducks the crucial issue of loan principle reduction, it will continue to fail the states in greatest need.



Sources: MBA Q409 NDS & HAMP Servicer Performance Report Through January 2010



As more families fall behind on their mortgages, federal funding for counseling is decreasing...