Addressing the Foreclosure Crisis

THE PROBLEM

Communities around the country have been devastated since the housing bubble burst: families cut back on spending when their life savings disappeared; the economy was thrust into recession; government tax revenue plummeted; crucial services were cut. Four years later, the economic crisis caused by irresponsible banking practices continues: over 22 million Americans are either unemployed or underemployed. And the nation's housing market remains in disrepair: more than 3.5 million homes have been lost to foreclosure and over 10 million homeowners are "underwater," meaning they owe more on their mortgage than their house is worth. Although the major settlement announced by the federal government in early 2012 is benefiting some homeowners, too many people still face huge delays and improper denials of mortgage modifications and there have been very few principal reductions.[1]

THE SOLUTION

The federal government has the power to ameliorate the crisis and states can rewrite their foreclosure laws. But what can cities do? Increasingly, local communities and elected officials are thinking creatively about how to protect homeowners, recover losses, and hold banks accountable for the crisis they created. Some emerging strategies are laid out below.

STEP 1. DEMAND TRANSPARENCY AND RECOVER THE COSTS OF FORECLOSURES: After banks take homes into foreclosure and evict the residents, the properties often sit vacant for months or years. Not only is this a waste of valuable housing, but empty property also becomes a neighborhood blight, dramatically reduces the value of neighborhood homes, reduces city tax revenue, and forces government to spend money on upkeep, code enforcement, and police services.[2]

To combat these costs, **Los Angeles** adopted a foreclosure registry program in 2010. It mandates that the owner of any foreclosed property: (1) immediately register the property with the city and pay a small fee; (2) conduct regular inspections of the property and ensure it is properly maintained; and (3) pay utilities on time and collect the rent if the property is occupied. If the property remains vacant for more than 30 days and is not being renovated or actively offered for rent or sale, the ordinance permits the city to impose a fee of up to $1000 per day, not to exceed $100,000. The results have been mixed: although over 18,000 foreclosed properties had been listed in the Los Angeles registry, many of which were blighted, the City had not recovered even one dollar in fines through the summer of 2012.[3]

"We're just trying to stay in our home as long as we possibly can."

— **Cathy Busby**, CO

"Not one political campaign, not one ad, addresses this issue."

— **Mark Roarty**, OH

In contrast, **Riverside, CA** passed legislation closing a key loophole in the L.A. law and investing heavily in enforcement. Riverside collected $7 million in fines during 2009 and 2010.[4] Los Angeles recently amended the law to improve enforcement, including by giving local youth summer jobs in a "blight brigade" that inspects bank properties.

Cities as small as **Murrieta, CA** and as big as **Atlanta**, **Las Vegas**, and **San Diego** have also adopted foreclosure registry ordinances. **Springfield, MA** has taken the most aggressive approach by mandating that lenders who foreclose on a property post a $10,000 bond with the city to ensure compliance with the law. A federal judge recently rejected the banks' challenges to the law.[5]

STEP 2. MOVE OUR MONEY: Cities are major depositors with the very banks who have caused so much pain. Modeled after **Cleveland**'s 1991 law and the federal Community

Reinvestment Act, at least seven cities – **Seattle**, **Pittsburgh**, **Portland**, **Kansas City**, **Los Angeles**, **New York,** and **San Diego** – have each recently passed a Responsible Banking Act to demand more transparency and accountability from banks. [6] The specifics of each law vary, but they generally require that any bank wishing to do business with the city disclose detailed data on its lending, foreclosure, and community redevelopment activities. In Los Angeles, banks that fail to comply are not eligible for city contracts; in New York, however, such failure is only one factor to be considered by the City in selecting banking partners. **Buffalo** has been bolder: in May, it moved all of its deposits out of Chase Bank and into First Niagara.[7] **Binghamton** and other upstate New York towns have also closed their accounts to protest Chase's failure to renegotiate mortgages.

STEP 3. INNOVATE: In 2013, the city of **Richmond, CA** has moved forward with a plan to use its power of eminent domain to write down the principal of underwater mortgages so that families can stay in their homes and lower their monthly bills. Under its plan, entitled Richmond CARES, the city will help purchase underwater mortgages, held by Wall Street banks and investors, reduce the principal and re-sell them at the lower price in order to keep homeowners in their homes and avoid foreclosure. Although Wall Street banks are attempting to stop the City's plan, it is currently moving forward.[8]

Another approach is for legislators to instruct city attorneys to **open investigations**, backed by subpoenas, into the LIBOR interest rate manipulation that likely deprived municipalities of billions of dollars. Interest rate swaps still in effect on municipal bonds should be renegotiated on better terms.

Finally, cities should demand **transparent accounting** of the high fees that banks are charging for (1) debit cards issued by government benefit programs like SNAP, TANF, and unemployment benefits; (2) the letters of credit that cities need in order to issue bonds; and (3) the underwriting agreements for Build America Bonds. Once the high costs are exposed, legislators can **seek renegotiation** or threaten to terminate city banking contracts.[9]

LANDSCAPE AND RESOURCES: A host of organizations are pushing on these issues. Among them are the **New Bottom Line**, **the Home Defenders League**, **National People's Action, Right to the City**, the **Leadership Center for the Common Good**, the **Alliance for a Just Society**, and the **Center for Popular Democracy**.

NOTES

1. Peter Goodman, *Foreclosure Settlement Fails to Force Mortgage Companies to Improve*, The Huffington Post. (Aug. 7, 2012).
2. Center for Policy Initiatives, Foreclosure: The Cost Communities Pay (2011).
3. Dana Bartholomew, *Banks letting blight take over L.A. foreclosures -- and they're getting away with it*, LA Daily News (Aug. 22, 2012).
4. How We Can Fix LA's Foreclosure Registry Program to Make Banks Pay for the Harm They Cause Our Communities, http://banksmakebadneighbors.files.wordpress.com/2012/06/how-to-fix-blight-enforcement.pdf.
5. Jim Kenney, *Springfield anti-foreclosure ordinances may stand, U.S. District Court judge Michael Ponsor rules*, The Republican (July 3, 2012).
6. Kate Berry, *Ninth U.S. City Adopts a Responsible Banking Law*, American Banker (Nov. 1, 2012).
7. John Washington*, Occupy Buffalo Chasing Chase Out of Buffalo*, FireDogLake (May 31, 2012).
8. David Reiss, *Eminently reasonable: Using the power of eminent domain to restructure underwater mortgages is constitutional, beneficial and administratively feasible*, National Law Journal (Sept. 24, 2012).
9. The Home Defenders League deserves credit for designing the proposals in this section.