



New York Legal Assistance Group

Testimony Before the Joint Legislative Public Hearing

2017-18 Executive Budget Proposal: Economic Development

February 1, 2017

Chairs Boyle and Schimminger, members of the Senate and Assembly, and staff, good morning and thank you for the opportunity to testify regarding the effect that the elimination of foreclosure prevention funding would have on neighborhoods all across New York State. My name is Rose Marie Cantanno and I am the Associate Director of the Consumer Protection Unit, and the Supervising Attorney for the Foreclosure Prevention Project, at the New York Legal Assistance Group (NYLAG).

For the past six and a half years, I have had the privilege of representing New York homeowners in the five boroughs of New York City and Long Island on a variety of matters related to foreclosure. Though we have made great strides, the foreclosure crisis that began in 2008 is still far from over. Foreclosures comprise approximately 26% of the Supreme Courts' civil caseload; in 2016, there were 34,000 new foreclosure cases filed and 72,000 foreclosure cases pending.

For the past five years, monies from the National Mortgage Settlement have funded a coalition of legal service providers and housing counselors in every county of New York State, the Foreclosure Prevention Services Network. Unfortunately, this revenue stream is now exhausted. In 2016, this network served approximately 34,000 families in New York State. Legal service providers represent struggling homeowners who are involved in complex litigation in the hopes of saving their homes. In addition, they represent clients who can no longer sustain their homes and find themselves owing hundreds of thousands of dollars more than their homes are worth, helping them negotiate short sales or deeds-in-lieu with the mortgage lender. Legal services organizations are also a line of defense against scammers who prey on vulnerable and desperate homeowners, conning them out of thousands of dollars, and often costing them their homes. Housing counselors assist homeowners apply for loan modifications, often keeping them from facing foreclosure.

In 2016, New York State passed a sweeping set of reforms to improve the settlement conference process, in which parties are required to negotiate in good faith to try and reach a loss mitigation solution. In addition, strong legislation was passed to combat the ever-growing problem of zombie properties, those abandoned by the homeowner but not foreclosed on by the lender. The Community Restoration Fund was created to allow communities the opportunity to stabilize.

The Foreclosure Prevention Services Network is essential to the successful implementation of these reforms. The reforms to the settlement conference process afford litigants who have not answered the

initial complaint thirty days to file an Answer. The courts are actually required to refer pro se homeowners to legal services. Most counties now have legal service providers directly in the courtroom to assist clients immediately, or have regularly scheduled legal clinics that homeowners can attend. Represented homeowners force the lenders and their attorneys to follow the law and ensure that every consumer protection the legislature intended is realized.

The new legislation also affords homeowners trying to negotiate a short sale the benefits of the settlement conference process. Short sales are an important tool for those homeowners who owe their lender far more than the market value of their home. In these cases, homeowners can lose their homes and potentially have a deficiency judgement against them for hundreds of thousands of dollars. When this occurs, salaries are garnished, bank accounts frozen and tax refunds forfeited. Short sales allow the homeowner to sell the home for less than what is owed, and stay out of a costly litigation situation. This is beneficial both to the individual and the neighborhood. When a house is short sold to a member of the community, it is far better for a neighborhood than it being foreclosed on by a bank and left vacant and boarded up. Often investors win foreclosure auctions and do not upkeep or repair these properties. Property values go down in the entire neighborhood, local businesses suffer from the waning population in the area, and squatters and criminals target these vacant houses and make neighborhoods unsafe. Short sales keep communities stable and secure.

The new legislation regarding zombie properties also relies on the Foreclosure Prevention Services Network to identify vacant properties and notify the Department of Financial Services (DFS) of their existence. There are neighborhoods where every block has multiple boarded up, abandoned houses. In the past, lenders have flagrantly refused to foreclose on and take responsibility for these properties. Now that they are obliged to do so, court battles will surely ensue. The Network has a longstanding relationship with DFS and will be their "eyes and ears" on the ground.

Finally, the Mortgage Assistance Program (MAP) is a statewide program that provides interest-free loans up to forty thousand dollars to homeowners who are trying to save their homes. This program depends on the Network to screen applicants and, if they are eligible, to complete the application with the homeowner and guide them through the closing.

Without continued funding for the Foreclosure Prevention Services Network, providers will be unable to coordinate services to ensure successful implementation and enforcement of the reforms mentioned here or any proposed legislation moving forward. An allocation of \$30 million will ensure that legal services providers and housing counselors are able to continue providing critical services to homeowners in danger of foreclosure.

I want to once again take the opportunity to thank Chairs Boyle and Schimminger and the members of the Committees for their time, and for considering these important matters. I welcome the opportunity to discuss any of these matters with the Committees further.