



## **New York State Legislature 2020 Joint Budget Hearing**

Thank you for the opportunity to submit written testimony for the Legislative Joint Budget Hearing on Housing. The Western New York Law Center has been providing free representation to homeowners in Western New York facing foreclosure since the 1990s. Our office also contracts with several municipalities in Western New York to assist them with addressing vacant and abandoned properties, or “zombie properties and we have a County-wide grant in Erie County to represent municipalities in addressing vacant and abandoned properties.”

Funding is needed now more than ever to address the problem of foreclosures and vacant and abandoned properties. On June 23, 2016, New York’s Zombie Property and Foreclosure Prevention Act was signed into law. All provisions of the law went into effect on December 20, 2016. Among the changes, Chapter 73 strengthens pre-foreclosure notices, which are sent at least 90 days before a foreclosure lawsuit is initiated. Now the notices must include a list of at least five non-profit housing counseling agencies serving the geographic region of the borrower.

For the last several years, funding streams have been available to support legal services attorneys and housing counselors to assist homeowners who are facing foreclosure. Foreclosure funding is set to expire at the end of March of this year. Without additional this funding, legal services attorneys and non-profit housing counseling agencies will no longer be able to offer their services. This means there will not be five housing counseling agencies to list on the pre-foreclosure notice.

The existing network of attorneys and housing counselors has helped thousands of people statewide stay in their homes by negotiating affordable loans and raising valid defenses to foreclosure actions. The services of that network are still needed. Through October of 2019, the Office of Court Administration reported that 26,870 residential foreclosure cases were pending in NYS Courts. Additionally, the number of 90-Day Pre-Foreclosure Notices, which go into the pipeline of distressed mortgages that end up in our court system, are rising, particularly in Erie County. Reverse mortgage foreclosures are on the rise and foreclosure rescue scams targeting seniors, communities of color and immigrants

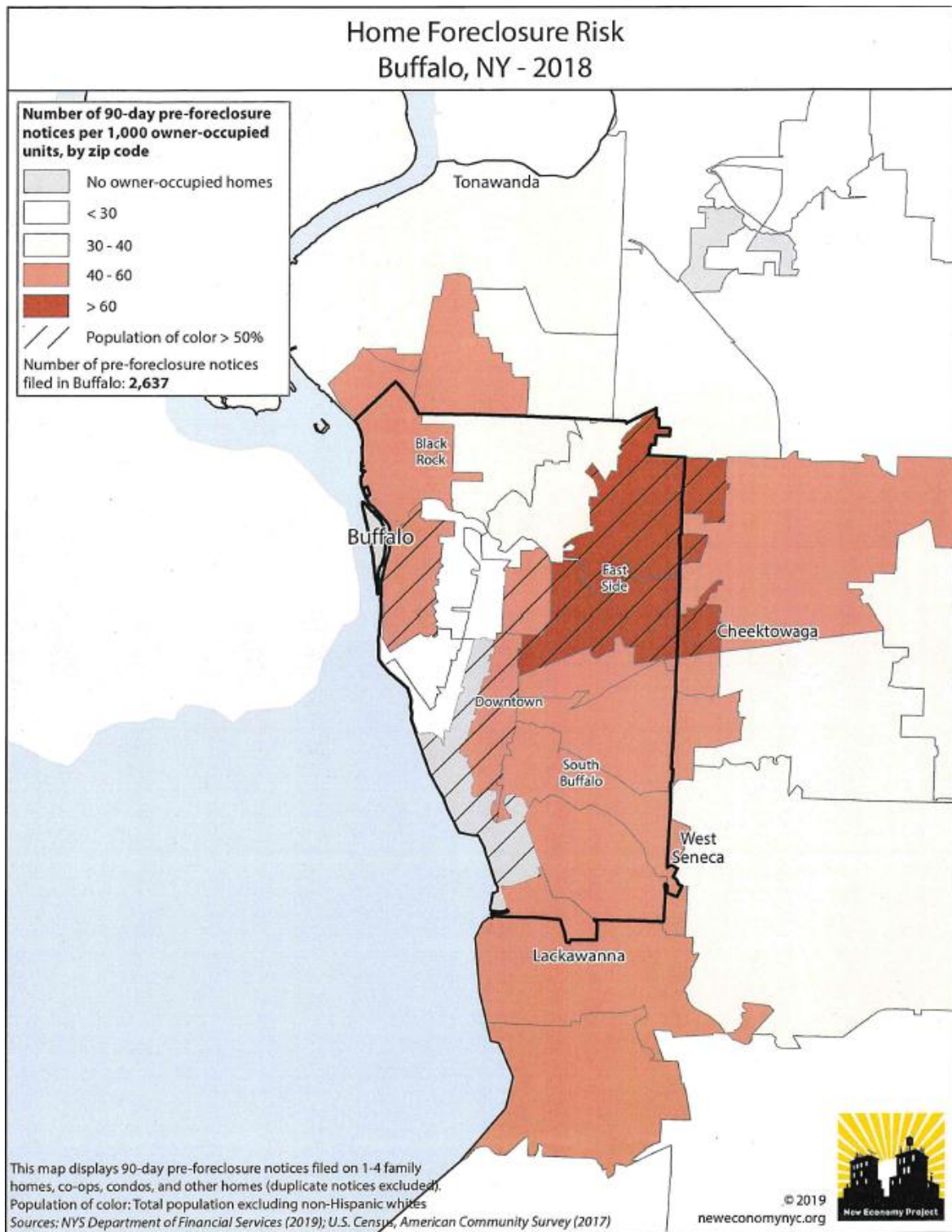
proliferate, exacerbating New York's affordable housing crisis and stripping neighborhoods of wealth.

Buffalo and Erie County have been particularly hard hit by the foreclosure crisis. According to a 2018 report, homeowners in only five counties in the state are at more of foreclosure risk than are homeowners in Erie County. Although the statistics are from 2018, many of these homes are still in the foreclosure process:

HOME FORECLOSURE RISK IN NEW YORK STATE: Top Ten Counties (2018)\*

County	Pre-Foreclosure Notices
Suffolk	23,820
Nassau	16,205
Queens	14,599
Kings	11,477
Erie	9,054
Monroe	8,739
Westchester	7,900
Orange	6,016
Bronx	5,285
Richmond	5,276

In Buffalo and elsewhere in the state, communities of color are especially hard hit by foreclosures:



Having a representative in the foreclosure process makes a huge difference between a homeowner losing or keeping a home. In the last year, our office alone represented 918 low-income households made up of 1087 adults and 317 children. We were able to help 310 of those households save their homes. We were also able to obtain \$877,388 in no interest loans for our foreclosure clients through the

MAP program, a program funded by banks through settlements in foreclosure litigation.

Funding for foreclosure representation is scheduled to end on March 31, 2020. If the funding is not renewed, homeowners will lose the protection of counsel throughout the stages of a foreclosure lawsuit. Without increased funding, several legal services agencies will no longer be able to operate in the same fashion. As distressed loan sales continue and more and more non-bank servicers are entering the market, cases are becoming more complicated. We as legal services attorneys help homeowners navigate complex foreclosure matters and hold banks accountable when they disregard mortgage servicing regulations. This helps to balance the scales while also improving the efficiency of our court system.

Under CPLR 3408, courts are required to hold mandatory settlement conferences to see if the parties can reach a mutually agreeable resolution. A law, which fairly recently went into effect gives homeowners the opportunity to file a late answer within 30 days of their first settlement conference. Without funding, we would not be able to help homeowners draft answers nor negotiate during the settlement conference phase.

Right now, there is a fantastic foreclosure prevention team in place with 87 agencies throughout the state. This well-oiled network has kept thousands of people in their homes and avoided the creation of zombie properties, which drive down property values and increase crime in communities.

It is especially important that this network stay in place now that federal modification programs have ended. With the ending of the HAMP Program, a homeowner's ability to get a modification has significantly lessened. This could lead to an influx of zombie foreclosures. Funding is needed now more than ever to support foreclosure prevention services.

We urge all of you here today to support funding of \$20 million for the Communities First program, which will fund the existing network of legal services attorneys and housing counselors and preserve these vital services through 2021. We look forward to working with you and with your constituents to continue to preserve homeownership and prevent the spread of vacant and abandoned properties in our communities.

We would also like to address the plan in the Executive Budget to remove homeowners who are delinquent on their property taxes from the STAR exemption programs. We have represented homeowners that are facing tax foreclosure for years and we believe this proposal will have many unintended consequences for the communities we represent. We oppose the inclusion of this proposal in the New York State budget for the following reasons:

- Denying homeowners their STAR exemptions will increase their tax bills and make it harder for them to get current and save their homes
- Interest on back taxes across NYS varies between 12% and 18% depending on the county and the increased tax bills will force homeowners to pay more in interest to get current
- The increased tax bills and subsequent interest will strip generational wealth from low income communities through the removal of equity from homes
- The proposal will negatively impact vulnerable populations on fixed incomes like the elderly, people with disabilities, and low income homeowners
- Homeowners with Reverse Mortgages will be impacted greatly and the removal of the STAR exemption will make it more difficult for them to save their homes
- Eliminating the STAR exemption for struggling homeowners will harm homeownership rates in low income communities
- Many tax delinquent properties become vacant and a burden on local governments. By making it more difficult for homeowners to cure their tax delinquencies, the result could be an increase in abandoned and vacant properties.

The majority of the time, a homeowner does not fall behind on taxes by choice. These are examples of the people and their situations our office has recently assisted:

- Fred E. fell behind on his property taxes when he became blind and was no longer able to work. He applied for social security but it took a long time to start receiving funds and he was unable to keep up with his expenses in the meantime.
- Nicole S. fell behind on her property taxes when she was unable to work for over a year due to serious physical and mental disabilities. She applied for social security but could not pay her property taxes while she waited for her eligibility determination.
- Tiffany K. fell behind on her property taxes when she was injured at work and required multiple surgeries. She did not receive enough income to pay her expenses.

- Beverly M. purchased her property with taxes already owing on it, which she did not realize. She was unable to catch up right away, as she was only living off a widow's pension and food stamps and suffered a family tragedy when two of her family members were shot and she had to pay funeral expenses.
- Alexander S., a single parent of three young children, fell behind on his property taxes when he was injured and was unable to work for a period of time.
- Clarence S. fell behind on his property taxes when he was diagnosed with cancer and incurred huge medical expenses.

Denying the STAR exemption to people who have fallen behind in their taxes through no fault of their own will just ensure that they will never be able to catch up on their delinquent tax payments.

We believe that NYS should take steps to deny the STAR exemption to properties that are vacant and abandoned. The proposal in the Executive Budget would require localities to report tax delinquents to the Department of Taxation and Finance so that a STAR credit or exemption can be withheld. Banks and mortgage servicers are required to report vacant and abandoned properties to the Department of Financial Services (DFS). DFS should be asked to report vacant and abandoned properties to the Department of Taxation and Finance. Vacant properties are not eligible for the STAR exemption, and the STAR exemption, which is often automatically applied to a tax bill year after year if a property and homeowner are eligible, should not be automatically applied to properties that are not eligible.

For more information, please contact: Kate Lockhart, 716-828-8420 or Joseph Kelemen, 716-828-8411