

January 28, 2021

New York State Legislature  
2020 Joint Budget Hearing  
Housing

My name is Jacob Inwald. I am the director of foreclosure prevention at Legal Services NYC, and I submit this testimony on behalf of Legal Services NYC in support of continued funding for New York’s Home Ownership Protection Program (“HOPP”), which is the sole source of funding for the statewide network of housing counseling agencies and legal services agencies providing foreclosure prevention services for New York’s struggling low and moderate income (“LMI”) homeowners.

Legal Services NYC (“LSNYC”) is the nation’s largest provider of free civil legal services to the poor. For more than 50 years, LSNYC has provided expert legal assistance and advocacy to low-income residents of New York City. Each year, LSNYC’s neighborhood offices across New York City serve tens of thousands of New Yorkers, including homeowners, tenants, the disabled, immigrants, the elderly, and children.

LSNYC is also the oldest and largest provider of foreclosure prevention legal services in New York City. LSNYC’s foreclosure prevention projects represent distressed homeowners and victims of predatory and discriminatory lending in neighborhoods decimated by foreclosures across Brooklyn, Queens, Staten Island, and the Bronx, and it has provided such assistance to nearly 20,000 families since 2007.

The HOPP network comprises nearly 90 non-profit housing counseling and legal services agencies that help New York homeowners, coop owners and condo owners avert homelessness and displacement by preventing avoidable foreclosures, combating mortgage fraud, deed theft, loan modification and partition scams, and challenging predatory and discriminatory lending and abusive mortgage servicing practices that disproportionately impact New York’s most vulnerable communities—seniors and people of color. The network serves every county in New York State and all five boroughs of New York City, but current grants funding this vital network end on July 15, 2021, and at present no funding has been provided in the Governor’s executive budget to continue this program even though the need for these services is more acute than ever before.

- New York is seeing the highest delinquency rate ever: as of the end of 2020, 11.8% (10,393,141) of New York homeowners were delinquent on their mortgages (according to US Census Household Pulse Survey data). This rate is over three times the last high of 3.8% in January 2009 at the height of the great recession; and over five times the delinquency rate of January 2020. Once foreclosure stays and

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moratoriums on new filings end during the spring, we expect a flood of new foreclosure filings that will drastically increase our already voluminous caseloads.

- HOPP preserves minority homeownership. Statewide, 43% of clients served by the HOPP network providers are homeowners of color; in NYC, the number exceeds 75%. The foreclosure crisis following the great recession disproportionately impacted New York's communities of color, who were targeted for the predatory lending that precipitated that crisis. The COVID-19 pandemic has been no different, with the health impacts and the economic pain felt more acutely amongst black and brown New Yorkers. On average, 15.72% of black homeowners in NY are delinquent compared to 7.53% of white homeowners since September 2020. (US Census Pulse Survey data)
- A complicated patchwork of federal and state programs has been developed which homeowners cannot navigate on their own. No uniform program has been established; FHA, Fannie Mae, Freddie Mac, and conventional lenders have developed independent programs to work with homeowners behind because of COVID. NYS enacted its own law on forbearance programs for New York- regulated lenders and mortgage servicers. Accessing relief requires understanding the details of these various interventions and knowing who owns the loan in question and what program a homeowner may be eligible for. Homeowners need help to ensure they can access relief and they need advocates to make sure lenders are complying with applicable federal or NY laws and regulations.
- For more than a decade, this network has been helping families in every county across New York State, and in each of the five boroughs of New York City, navigate complex housing challenges -- including mortgage fraud, scams, displacement, discriminatory lending and mortgage servicing -- and it has helped thousands of families to keep their homes and to stay in their communities. It has helped not just the individual families affected by foreclosures but the communities at large, by preventing displacement and by preventing the increased crime and reduced property values that accompany waves of foreclosure, which, in turn, adversely affect the local community tax base.
- The network was initially funded by the State and administered by New York Homes and Community Renewal, but for the last several years was funded by mortgage servicing settlement proceeds obtained by the Attorney General's office, which has administered the network through its Homeowner Protection Program, known as "HOPP." Last year's grants—sourced from the last remaining funds from more recent bank settlements and from the State's Mortgage Insurance Fund-- end in July 2021, precisely when the need for assistance will be most dire, after the end of moratoriums, court stays, and forbearance plans. Without restoration of the funding in the budget process, the statewide network will be unfunded precisely when it is needed the most as New York continues the weather the impacts of the COVID-19 pandemic.

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- Already, because the funding was not included in the Executive Budget, leaving a cloud of uncertainty, the nonprofits providing these services must curtail intake as these are complex cases that take a long time to resolve.
- If funding for the Homeowner Protection Program (HOPP) lapses, two-thirds of the state's existing foreclosure prevention program capacity will disappear overnight, leaving some regions with no service providers if funding is not provided, and slashing the network here in New York City. Additional reductions are anticipated in the months thereafter.
- Over 100 advocates providing services to NYC homeowners will be impacted in the coming year. These staff members will be laid off or transitioned to other programs.
- Not only will New York families suffer and face displacement; employees across almost 90 organizations are in danger of losing their jobs, and their expertise, along with the associated infrastructure in place that supports this network, which represents a substantial investment by the State of New York, will be discarded.
- As of 2019 the network had already helped 100,000 NY homeowners since 2012. Those receiving this assistance are working, low and moderate-income families, New Yorkers of color who were targeted for predatory loans, and seniors battling a wave of foreclosures on reverse mortgages. The network mitigates displacements from foreclosures, scams or mortgage distress and challenges abusive mortgage servicing by financial institutions and discriminatory lending practices such as reverse redlining, in which vulnerable communities are targeted for the most toxic of loan products. Most importantly, it levels the playing field, giving distressed homeowners, condo owners and coop owners an advocate in court and in negotiations with large financial organizations.
- These disappearing service providers are embedded in New York's consumer protections enacted after the foreclosure crisis, which were recently made permanent features of the judicial foreclosure process:

Lenders are required by law to send pre-foreclosure notices specifically identifying counseling agencies serving the homeowners' county—the very agencies that will be no longer funded to do foreclosure prevention work if funding lapses.

Network providers are integral to NY's pioneering foreclosure settlement conference process, where they partner with the courts to staff clinics and conferences and have been instrumental in drastically increasing the numbers of homeowners with representation at settlement conferences and in increasing the numbers of homeowners answering foreclosure complaints

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and preventing default judgments. Indeed, thanks to this network many homeowners facing foreclosure now have representation during the court settlement conference process, whereas ten years ago most homeowners had no counsel and most foreclosure cases resulted in default judgments in which homeowners did not have access to counsel for the judicial foreclosure process. Recent amendments to that law provide homeowners attending their first conference a chance to avert default judgment and seek help from HOPP-funded legal services providers to file an answer to the foreclosure complaint, but that statutory mandate will be meaningless without HOPP funded agencies staffing conferences to provide this assistance.

- These services are a crucial tool in preserving sustainable, affordable homeownership. Especially in New York City, the loss of a home to a foreclosure that could have been averted also represents the loss of naturally occurring, affordable rental housing, as many of the homes impacted incorporate affordable rental units that are lost to the rental market when the home is lost to foreclosure and sold off to investors.
- No homeowner should have to experience the fear of displacement. New York families continue to need access to free resources and experts to help them understand their options during a pandemic that has brought economic dislocation on an unprecedented scale.
- Families save their money for years to achieve the American dream of owning a home but sometimes they fall on hard times or are victims of predatory scams, and they need the trusted, legitimate help that the HOPP network provides.
- For the last decade, the network has strengthened communities by helping families stay in the neighborhoods that they have lived in for generations.
- Foreclosure remained a significant problem even before the pandemic brought on a new wave of economic dislocation, as New York's economic recovery from the last foreclosure crisis has been uneven. In 2019, the last year for which complete data is currently available, there were approximately 22,000 new foreclosure cases filed in New York. More than 164,000 pre-foreclosure notices were filed against delinquent homeowners in the prior year. A testament to HOPP's success is the fact that many of those filings did not lead to a foreclosure filing—the default notice referring homeowners to HOPP agencies allowed for many cases to be resolved before they ripened into foreclosure litigation. But with this network defunded, leaving homeowners without access to advocates before cases are started in court, we can anticipate an *increase* in new court filings. Moreover, with court activity curtailed during most of the last year due to moratoriums and forbearance plans, an enormous backlog of new cases is expected to lead to an onslaught of new case filings in the coming months.

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- Scams and fraud resulting in displacement are on the rise, especially in gentrifying neighborhoods across New York City. The single most effective ammunition NY has against these scammers is the HOPP network, as every victim of a deed theft scam is a desperate homeowner seeking to save their home from foreclosure. Yet the Executive budget proposes to *dismantle* that network by eliminating its funding.
- Foreclosures typically spike when natural disaster, economic disruptions, or government shutdowns occur; this network stepped in after Hurricane Sandy, which had a horrific impact on New York City homeowners, and it has stepped in following COVID-19, working with the courts to help litigants summoned to “COVID” conferences and to assist homeowners with the filing of COVID hardship declarations mandated by recent legislation. New York City neighborhoods will be devastated without the safety net of housing and legal counselors to help families navigate the arcane judicial foreclosure and loss mitigation processes.
- If the existing network in which the State has invested is left to atrophy, homeowners will be left to fend for themselves, or worse, be at the mercy of scammers just waiting to take advantage of vulnerable homeowners, coop owners and condo owners desperately seeking to save their homes, as they defend themselves in court or attempt to resolve their mortgage distress. These are complicated, bureaucratic processes that can be nearly impossible to navigate without a nonprofit housing counselor or lawyer.
- With \$20 million in funding, the network will be able to continue its great work and combat urgent housing issues across the state, including:

The flow of zombie properties that destabilize neighborhoods

Mitigating distressed mortgage and tax foreclosures, especially those affected those suffering from the impacts of COVID-19, preventing displacement

Stopping scammers from stealing people’s homes and charging for loan modification services that are never provided

Providing representation to the state’s seniors, who have been facing a wave of reverse mortgage foreclosures in recent years, who have only recently received the consumer protections New York has provided to other residential mortgage foreclosure defendants.

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