

Testimony Submitted by the Brooklyn Bar Association Volunteer Lawyers Project to
New York State Legislature
2020 Joint Budget Hearing
Standing Committee on Housing
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My name is Peter White, Esq. I am a staff attorney at the Brooklyn Bar Association Volunteer Lawyers Project (the “VLP”), and I submit this testimony in support of continued funding for New York 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.

Brooklyn attorneys founded the VLP in 1990 after witnessing a growing disparity of legal resources and representation throughout Brooklyn’s judicial system. The VLP’s mission is to ensure that the legal system is accessible to those who, because of special needs or the overwhelming burdens of poverty, would not otherwise have means to enforce their rights or have their voices heard. The VLP provides direct civil legal services to low-income Brooklyn residents, assisting them to overcome life-altering legal challenges including foreclosures, family breakdowns, devastating debt, immigration status issues, potential homelessness, and predatory practices that overwhelmingly target the poor, the elderly, the disabled, and people of color. Through pro se assistance and direct representation, the VLP attempts to level the playing field and ensure access to justice. At the core of the VLP’s model is the recognition that the pro bono commitment of the private bar can provide the most effective and efficient means for low-income Brooklynites to access justice. The VLP supervises attorneys, law students, and other legal professionals, who, with the support of the VLP, provide high-quality, compassionate direct legal representation, advice, counsel, and community education throughout Brooklyn.

HOPP funds provide the VLP with the financial resources it needs to offer free direct foreclosure defense and deed theft representation; operate clinics vital in providing distressed homeowners with information and rights counseling; and conduct community outreach in the Brooklyn community. The HOPP network comprises 88 non-profit housing counseling and legal service agencies across New York State including the VLP. These agencies help New York homeowners and coop owners avert homelessness and displacement by preventing avoidable foreclosures, and combating mortgage fraud, deed theft, loan modification and partition scams. Furthermore, these organizations challenge 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 that fund this vital network end on July 15, 2021. For now, the Governor’s Executive Budget does not provide funding to continue this program even though the need for these services is more acute than ever before.

Despite the COVID-19 Pandemic and resulting foreclosure/eviction moratorium, the VLP served 219 foreclosure clients in 2020. The VLP reached out to 1,112 homeowners through its outreach initiative last year. In addition, the VLP hosted an online foreclosure CLE which forty attorneys and legal service providers attended.

The current COVID-19 crisis has caused an unprecedented increase in the number of foreclosure delinquencies across the state. At the end of 2020, 11.8% (10,393,141) of New York homeowners were delinquent on their mortgages pursuant to US Census Household Pulse Survey data. This rate is over

three times higher than the last high of 3.8% in January 2009 at the height of the recession. The mortgage delinquency rate at the end of 2020 is over five times the delinquency rate of January 2020. When the state foreclosure moratorium and stay on new filings end on May 1, 2021, legal service agencies expect to see a flood of new foreclosure filings that will increase caseloads for legal service providers in a dramatic manner.

This substantial increase in cases that legal services agencies expect will have a traumatic impact on the populations they serve without renewed HOPP funding. Statewide, 43% of clients our networks serve are communities of color. This number exceeds 75% in New York City. Thus, HOPP funding preserves homeownership in communities of color. The foreclosure crisis following the recession disproportionately impacted New York's communities of color, which banks targeted in predatory lending practices that precipitated the crisis. The COVID-19 pandemic has had the same effects on communities of color statewide. Many black and brown homeowners bear a disproportionate amount of the health impacts and the economic pain. 15.72% of black homeowners on average are delinquent on their mortgages compared to 7.53% of white homeowners in New York State since September 2020 according to US Census Pulse Survey data.

A complicated patchwork of federal and state programs in response to the COVID-19 pandemic compound these problems. No uniform program exists to help homeowners during this period. FHA, Fannie Mae, Freddie Mac, and conventional lenders have developed their own independent programs to help delinquent homeowners. New York State enacted its own forbearance law for New York-regulated lenders and mortgage servicers. Obtaining relief requires an understanding of the intricacies of these programs, something homeowners need assistance in doing. Moreover, homeowners need advocates to ensure that lenders comply with applicable federal and state laws and/or regulations.

The HOPP network has helped families in every county across New York State navigate such complex housing challenges for more than a decade. Such challenges include mortgage fraud, scams, displacement, discriminatory lending, and mortgage servicing. Thus, the HOPP network has helped thousands of families to retain their homes and remain in their communities. This foreclosure intervention has helped communities throughout the state because increased crime and reduced property values often accompany waves of foreclosure, adversely affecting the community tax base.

Last year, the VLP assisted 219 homeowners with their foreclosure matters and helped prevent 35 foreclosures. This number encompasses households that obtained home loan modifications, refinancing of mortgages, acquisition of funds through state programs to pay arrears, and home sales. Last year, 1117 people directly benefited from the VLP's foreclosure outreach and education programming including "Know Your Rights" trainings, and targeted presentations to seniors. The success of the VLP provided particular relief to people of color as 52% of the VLP's clients are Black, 16% are Latinx, and 4% are Asian.

If the State Legislature allows HOPP funding to lapse, the majority of the state's existing foreclosure prevention program capacity will disappear overnight, leaving some regions with no service providers. HOPP has provided the only dedicated source of funding for foreclosure prevention services. Moreover, the VLP represents a community that has constituted the epicenter of the COVID-19 pandemic and national job loss. New York City has had the highest job loss out of the nation's 82 metro areas. Almost one-third of the city's small businesses have closed; the leisure and hospitality industries have lost half their jobs. The city's private sector has lost half a million jobs, and the city itself is facing the biggest financial hole in its history. With many working-class homeowners facing job loss and furloughs, the possibility of a drastic increase in foreclosure cases is likely after the State's moratorium expires in the spring. To make matters worse, the Brooklyn housing market is one of the most expensive in the country, resulting in more possible pitfalls for homeowners that could barely afford their mortgages before the pandemic began. The VLP and other Brooklyn legal service providers require HOPP funds to provide help to homeowners during a situation that could be as bad or worse than that of 2008.

Moreover, not only will New York families suffer and face displacement, employees across almost 90 organizations are in danger of losing their jobs. The VLP may lose its entire foreclosure prevention unit if the State does not renew HOPP funds. That means the VLP, and the broader Brooklyn community, could lose their expertise along with the infrastructure and programs in place. Such programs help homeowners obtain not only direct representation, but vital information about their own cases and the judicial foreclosure process.

Various laws and programs also exist in New York State that depend on the network's services. HOPP service providers are embedded in New York's consumer protection laws enacted after the previous foreclosure crisis. HOPP service providers are now a permanent part of the state foreclosure process. For example: (i) The law requires that lenders send pre-foreclosure notices that specifically identify counseling agencies servicing the homeowner's county. These agencies will no longer have funding to do foreclosure prevention work if HOPP is allowed to lapse. (ii) Network providers partner with courts to staff clinics and conferences in the Foreclosure Conference Part and Foreclosure Settlement Part. These organizations played a pivotal role in pioneering the foreclosure settlement conference process, and since then they have been essential in drastically increasing the number of homeowners answering foreclosure complaints to prevent default judgments and taking the cases of individuals in advanced stages of the foreclosure process.

The VLP provides direct foreclosure representation to Brooklyn homeowners in the judicial foreclosure process. Attorneys complete and remit Loan Modification Applications, attend conferences in Kings Supreme Court, and litigate foreclosure cases with the goal of settling these cases or discharging invalid mortgages. The VLP conducts outreach events that educate the public and help curtail the vicious cycle of foreclosure, displacement, gentrification, and real estate fraud. The VLP holds public forums on deed scams, mortgage theft, and financial literacy, and foreclosure legal education. These events concentrate on Brooklyn neighborhoods most susceptible to fraud and incidents of foreclosure distress. In addition, these presentations target neighborhoods with high populations of senior citizens. The VLP currently hosts virtual presentations due to the ongoing pandemic, and the VLP often holds these events with neighborhood housing counseling agencies, community and senior centers, banks, and elected officials' offices. The VLP strives to develop and build on existing community relationships to best serve its clients and the broader Brooklyn community.

The VLP also operates various clinics to provide direct homeowner assistance. VLP attorneys manage a clinic every Tuesday and Wednesday called the Foreclosure Legal Assistance Group ("FLAG") in Kings Supreme Court. Attorneys and volunteers provide homeowners with essential information about the foreclosure process upon exiting from foreclosure settlement pre-conferences. The VLP and other network providers operate Friends of the Court clinics on assigned days in the Foreclosure Settlement Part. Attorneys assist pro se litigants with foreclosure motion information and participate in motion conferences upon request. The VLP also has a Friday Clinic where its attorneys help Defendants complete Pro Se Answer forms. Attorneys also provide critical information about the foreclosure process in general. The VLP receives numerous referrals from the Court during the Friend of the Court clinics, and the VLP takes on many of the cases that come to the Friday Clinic. The VLP's attorneys have worked hand-in-hand with court staff to ensure representation for many foreclosure Defendants that would not have had the funds to pay private counsel.

Due to the growing value of real estate in Brooklyn, opportunities for fraud abound, especially for those looking to scam senior citizens. "Investors" and fraudsters looking to acquire homes seek out distressed and older homeowners to commit any number of deed scams. The VLP conducts educational outreach presentations throughout senior centers in Brooklyn in addition to providing financial education and legal information regarding deed scams to homeowners. The VLP conducted 5 deed scam outreach and education events in 2020 and reached out to 548 people. The VLP has partnered with numerous senior centers including Glenwood Neighborhood Senior Center. Through these partnerships, VLP attorneys have presented on deed theft scams. These presentations have allowed the VLP to reach individuals who may not have heard of our services through other means. Recently, the VLP conducted two call-in presentations on scam prevention. These presentations helped individuals who do not have the

technological means to use conferencing applications. Continued HOPP funding will ensure that the VLP can continue its efforts to provide educational deed scam programming specific to older and distressed homeowners throughout the community.

Since 2021, the HOPP network has helped 150,000 NY homeowners. The individuals who partners assist are working, low and moderate-income families, people of color, individuals targeted for predatory loans, seniors battling reverse mortgages, and many others. The network mitigates displacement from foreclosures, scams, abusive mortgage servicing by financial institutions, and discriminatory lending practices such as reverse redlining. The HOPP network further defrays the costs of additional homeless services that cities in New York and the State would have to pay for homeless services. Most importantly, it levels the playing field by providing property owners litigation advocacy and expert negotiators that can fight back against large financial organizations.

The VLP and its HOPP network partners urge the New York State Legislature to include funding of \$20 million in this year's funding so that the HOPP network can continue its work of helping distressed homeowners. The Governor's foreclosure moratorium remains in effect until May 1, 2021, which means that the flood of foreclosures will begin this summer. The current contract with the New York State Office of the Attorney General ends on July 15, 2021. Thus, the State may face a wave of foreclosures—which will ultimately cause to pay large sums for homeless services—and increased scam-related activities throughout the state. The best way to address the coming crisis is to help avert it. Doing so starts with making sure that HOPP network partners are there to stem the tide.

Thank you for your time and consideration.

Respectfully submitted,



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