

January 28, 2021

New York State Legislature
2020 Joint Budget Hearing
Housing

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My name is Noelle Eberts. I am a Supervising Attorney at the New York Legal Assistance Group and I submit this testimony 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.

Founded in 1990, New York Legal Assistance Group (NYLAG) is a leading civil legal services organization combatting economic, racial, and social injustice by advocating for people experiencing poverty or in crisis. Our services include comprehensive, free civil legal services, financial empowerment, impact litigation, policy advocacy, and community partnerships. NYLAG exists because wealth should not determine who has access to justice. We aim to disrupt systemic racism by serving individuals and families whose legal and financial crises are often rooted in racial inequality. NYLAG goes to where the need is, providing services in more than 150 community sites (e.g. courts, hospitals, libraries) and on our Mobile Legal Help Center. During COVID-19, most of our services are virtual to keep our community safe. NYLAG’s staff of 300 impacted the lives of nearly 90,000 people last year.

NYLAG’s Foreclosure Prevention Project (FPP) is in the midst of its ninth year as a HOPP grantee. This continued stream of funding has allowed it to take on more complex cases, delve into peripheral areas of law which allow homeowners to keep their homes, and to provide outreach in the form of pro se assistance and community education to numerous individuals throughout the five boroughs and Long Island. As the only other funding NYLAG’s FPP receives is from CNYCN at different times, it is the source which allows its work to continue.

Across New York State, the HOPP network comprises 88 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 mortgage (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

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 homeownership in communities of color. Statewide, 43% of clients served by our 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 are developing 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 allowed them 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.

If funding for the Homeowner Protection Program (HOPP) is allowed to lapse, majority of the state's existing foreclosure prevention program capacity will disappear overnight, leaving some regions with no service providers. HOPP has been the only dedicated source of funding for foreclosure prevention services. Before HOPP, full representation services were particularly scarce in Long Island. Even now, there are only two agencies who take on cases past settlement conferences, even though Suffolk and Nassau counties have the two highest foreclosure rates in the state. Without HOPP, there would be no real chance for Long Island homeowners to save their homes.

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.

There are also a number of laws and programs in New York State that depend on our services; HOPP service providers are embedded in New York's consumer protections enacted after the foreclosure crisis and now a permanent part of our foreclosure process, such as:

- 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. **For homeowners with more complicated mortgage issues, counseling agencies refer homeowners to NYLAG before a lawsuit has even begun. This referral system allows many homeowners to quickly resolve their mortgage issues and avoid unnecessary litigation and the resultant fees and expenses which are passed on from the servicers to homeowners.**

- Network providers are integral to NY's pioneering foreclosure settlement conference process, where we 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 and preventing default judgments. **Pre-pandemic NYLAG regularly held free walk-in clinics for homeowners and also served as friend of the court during settlement conferences and traditional motion calendars. As a friend of the court, our attorneys were routinely able to help homeowners succinctly and clearly explain complex mortgage histories and financial circumstances to the Court. Additionally, the Court routinely referred homeowners who came in seeking legal information in cases that were too complex for the Court Helpdesk to assist. Our attorneys assist hundreds of homeowners with pro se answers and other legal documents which allow the Court to more readily discern the legal merits of a case. Pre-pandemic these services were provided in person at our court clinics but we have since shifted to a virtual platform which is prepared to handle the volume of foreclosure cases expected once the health crisis is under control.**

Since 2012, the network had already helped 150,000 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.

The FPP-NYLAG's FPP has made a dedicated effort to assist those who have been scammed - either through a form of deed theft or a pure financial scam. We have settled several affirmative cases against individuals, companies, attorneys and modification companies. In some cases, we are able to settle or correct the wrong before ever getting to that point. Even when legal recourse gets stymied we are able to assist individuals with their next steps in their new reality. Community education is an essential part of our mission as the main goal is to prevent people from being scammed. In areas where property values are unstable, we are representing more individuals in the sale or refinancing of their homes thus preventing them from being taken advantage of by scammers or savvy investors. The FPP has also represented numerous homeowners in cases on appeal.

We URGE the New York State Legislature to include level funding of \$20 million in this year's budget so that the HOPP network can continue its great work combating urgent housing issues and continuing to help homeowners in distress and foreclosure. The foreclosure moratorium is in place through April which means the flood of foreclosure filings will begin this summer, just at the time current contracts with the New York State Office of the Attorney General ends on July 15, 2021. If we



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are not here, scammers will flood into New York to take our place throwing homeownership issue across our state into a whole new crisis, and resulting in thousands more homeowners losing homes that could have been saved.

For more information, please contact me at neberts@nylag.org or you may contact my Associate Director, Rose Mare Cantanno at RMCantanno@nylag.org.