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Housing

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My name is Amy Gathings. I am the Supervising Attorney for Foreclosure at the Western New York Law Center in Buffalo, New York. 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.

The Western New York Law Center serves homeowners facing foreclosure in Erie, Wyoming, and Genesee counties. We have been providing foreclosure prevention services for over twelve years. As such, we have developed an expertise in this complex area of law that will be lost should the HOPP funding be discontinued or interrupted. We engage in a variety of strategies to assist homeowners, including litigation, representation at settlement conferences, pre-foreclosure negotiation, tax foreclosure representation, mortgage discharge actions, assistance with clearing title or dealing with other consumer debt impacting the homeowner’s ability to maintain the mortgage, bankruptcy, and surplus monies proceedings to assist homeowners recoup their equity in a home that they have lost to foreclosure. Over the years we have built an array of services that we feel provide comprehensive assistance to protect and support homeownership opportunities for individuals, which in turn strengthens and stabilizes our neighborhoods. Without the funding we receive from HOPP, we would not be able to provide these comprehensive services to prevent foreclosure and homelessness. This would be a tremendous loss for Western New York.

We partner with two other local legal services agencies to provide foreclosure prevention legal services to the Western New York Region. With our two partner agencies we typically serve close to one thousand homeowners a year, preventing foreclosures in close to half those cases. Western New York and Erie County generally have high foreclosure rates. Erie County is especially vulnerable and has been within the top five or six counties in the state that have the highest foreclosure rates. Over the past few years Erie County has seen between twelve hundred and fifteen hundred new foreclosure filings each year. The extent of the foreclosure problem in our area is great and our services are critically important to the stability of the region as many of the foreclosures we handle are prevented. Without our assistance homeowners would not be

able to defend themselves with as high a success rate.

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. Without HOPP funding Erie County, Wyoming County, and Genesee County along with many other counties across the state, will be without any access to free legal services to assist with the vast array of issues facing homeowners who are behind on their mortgage or property taxes. Homeowners will be forced to deal with these issues on their own and many who should qualify for workouts with their services or with their municipalities in the case of tax foreclosures will lose their homes because they are unable to navigate these systems on their own. Many homeowners will also be victimized by scammers. We are seeing the rise of deed theft and investment scams in our area as property values are rising. Investors looking to pressure distressed homeowners out of their homes are more aggressive than ever and we expect that this trend is only going to worsen in the coming years. Without the HOPP network of services, there will not be services available to help protect vulnerable homeowners in our region from these unscrupulous forces.

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. Our agency will have to let go of a number of very experienced attorneys and support staff if this funding is not secured.

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.
- 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. Our local courts regularly refer unrepresented homeowners to our office for assistance as do our local legislators. We appreciate the opportunity to serve as the experts in our community in homeownership issues. Without HOPP funding we will no longer be able to provide any of these services or take any of these referrals.

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

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 continue 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 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 Amy Gathings, Esq. at 716-855-0203 x 117.