

January 31, 2022

New York State Legislature
2022 Joint Budget Hearing
Housing

My name is Noelle Eberts. I am a Supervising Attorney at 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 and legal services agencies providing foreclosure prevention services to New York's struggling low and moderate income (LMI) homeowners. My request is for a three year budget commitment of \$115 million - \$35 million the first year and \$40 million each year thereafter- to keep LMI New Yorkers in their homes. Current funding for this vital housing program is set to expire on July 15, 2022 and the Governor has only allocated \$20 million for HOPP in the Executive Budget.

Founded in 1990, New York Legal Assistance Group (NYLAG) is a leading civil legal services organization that combats economic, racial, and social injustice by advocating for New Yorkers experiencing poverty or in crisis. Our work 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 in New York (e.g. courts, hospitals, libraries) and in our Mobile Legal Help Center. During COVID-19, most of our services have been virtual to keep our community safe. NYLAG's staff of 350 impacted the lives of nearly 90,000 people last year.

NYLAG's Foreclosure Prevention Project (FPP) is in its tenth year as a HOPP grantee. This continued stream of funding has allowed FPP to take on complex foreclosure prevention cases, to delve into areas of law that 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. Since the only other funding NYLAG's FPP sometimes receives is from the Center for NYC Neighborhoods, HOPP is a critical support that allows NYLAG's work to continue.

Across New York State, the HOPP network comprises 89 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 affect 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.

- New York is seeing the highest delinquency rate ever: between July and October 2021, 10.75% (433,423) of New York homeowners were delinquent on their mortgage (according to US Census Household Pulse Survey data). This rate is more than twice the average delinquency rate (4.9%) between when HOPP began in October 2012 and just before the pandemic in February 2020, and over three times the delinquency rate pre-pandemic in January 2020 (3.4%) according to the Consumer Financial Protection Bureau's mortgage performance trends. Now that the foreclosure stays and moratoriums on new filings have been lifted, a flood of new foreclosure filings will drastically increase our already voluminous caseloads.

- HOPP preserves homeownership in communities of color. Statewide, 43% of clients served by our network of providers are homeowners of color; in NYC, the number is 75%. The foreclosure crisis following the great recession disproportionately affected New York's communities of color, who were targeted for 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 among black and brown New Yorkers. On average, 19.8% of homeowners of color in NY are delinquent compared to 6.6% of white homeowners (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; the Federal Housing Administration, 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 to regulate 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 and 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 keep their homes and allowed them to stay in their communities. Our work has supported not just individual families affected by foreclosures but the communities at large, by preventing displacement, increased crime, and reduced property values that accompany waves of foreclosure, which, in turn, adversely affect the local community tax base. Keeping families safely in their homes has also become a community public health issues during the pandemic.

If the Homeowner Protection Program (HOPP) is not fully funded, the majority of the state's existing foreclosure prevention programs will be severely understaffed when

New York homeowners face a flood of foreclosure filings. HOPP is the only dedicated source of funding for foreclosure prevention. Before HOPP, full representation services were particularly scarce on 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 (25% of all filings). 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 are now a permanent part of our foreclosure process. For example:

- 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 lawsuits even begin. This referral system allows many homeowners to quickly resolve their mortgage issues and avoid unnecessary litigation as well as related 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 assisted hundreds of homeowners with pro se answers and other legal documents that allow the Court to more readily discern the legal merits of a case. Pre-pandemic these services were provided in person at court clinics, and we have since shifted to a virtual platform. As the courts have reopened, we are prepared to bring over a decade of expertise to handle the two-year backlog of foreclosure cases that were on hold as a result of the pandemic.

- HOPP servicers are also critical to distributing the \$540 million in pandemic relief from the Homeowner Assistance Fund (HAF) to New Yorkers so that they can stay in their homes. At least 40 percent of homeowners receiving these funds will be New Yorkers of color. Because NYLAG is imbedded in the community, we have been able to quickly identify constituents who will likely qualify for relief and are generally responsible for working with New York homeowners to successfully navigate the application process and receive these vital funds. Because of NYLAG's vast experience, working on these applications will also help New York State to identify mortgage lenders and debt collectors whose practices are out of line.

Since 2012, the HOPP network has helped 120,000 New York homeowners. Those receiving 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 HOPP 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, HOPP levels the playing field, giving distressed homeowners, condo owners and coop owners an advocate in court and in negotiations with large financial organizations.

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 represent 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 \$115 million for three years - \$35 million the first year and \$40 million each year thereafter - so that the HOPP network can continue its great work combating urgent housing issues and continuing to help homeowners in distress and foreclosure. The court moratorium has been lifted this month, which means the flood of foreclosure filings will begin, and a two-year backlog of foreclosure cases will be entering the courts. If we are not funded, scammers will inundate New York to take our place throwing homeownership 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.