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New York State Legislature  
2024 Joint Budget Hearing  
Housing

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My name is Madeline Mullane, Esq. I am the Director of the Nassau Bar Foundation's Mortgage Foreclosure Assistance Project, 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 and homeownership preservation services for New York's struggling low and moderate income ("LMI") homeowners. **The Governor's proposed budget eliminates all funding for HOPP, even though the services this network provides are more crucial than ever.**

The Nassau Bar Foundation's Mortgage Foreclosure Assistance Project is a legal service provider under the HOPP network that provides for the day direct representation for homeowners at their mortgage foreclosure settlement conferences in Nassau Supreme Court. That is the core of our programming, however, we also provide many other services to our community and homeowners in Nassau and neighboring counties as well. We provide court walk-in consultations in Nassau Supreme, where many clients we serve lack even the most basic understanding of the foreclosure process, let alone the options and protections that may be available to them. We provide a stable and reliable presence within the physical court building 4-5 days per week, where other HOPP agencies, the Court, government officials and others are aware of our presence, and routinely refer clients to meet with us.

Because our scope of programming is limited to general information about foreclosure, rights, outcomes, and the legal process, another core part of our programming is our broad referral network to other HOPP legal services and housing counseling agencies. Each client we meet with is referred to other HOPP and community agencies that they can further discuss their situation with and discover and be connected to (and oftentimes assisted with) obtaining further assistance and resources. These housing counseling and legal services agencies, under the umbrella of HOPP, can provide individuals with assistance in applying for loan modifications, assisting with communications with the foreclosure lender and their Plaintiff counsel, and representing them throughout the foreclosure process in court. Some agencies even provide ongoing legal services and can assist with preparation of litigation proceedings.

There is a wealth of information, resources, and competent representation available for homeowners that our Project can warmly refer clients to, to ensure continuity of services and continued contact with homeowners. None of this would be possible without the Island-wide coordination of HOPP and our providers. Another ability of the scope of our Project is to hold informational events and legal clinics in the community. Our ability to host these events at our building in Mineola NY, is central to the courts and a midway point in Nassau County. We can welcome homeowners to come and meet with attorneys free of charge, and then refer them to HOPP agencies that can potentially assist even further. Many who attend our clinics have successful outcomes and can either avoid foreclosure entirely, or in some cases where that outcome is not achievable, the homeowner can have options available to them to

make the transition process to new housing with more choices involved and information known beforehand to navigate the process.

We serve Nassau County residents predominantly, but Suffolk County does not currently have a program that mirrors ours in the HOPP network, and so we do regularly serve Suffolk clients, to refer them to the appropriate HOPP agencies in Suffolk for legal services and housing counseling. We are also able to serve clients in bordering counties including Queens and Westchester, as we often receive inquiries from heirs or children of individuals who reside in Long Island and are seeking assistance, often with elderly relatives or other extended family members. We work with clients facing reverse mortgage foreclosures as well as tax lien foreclosures in Nassau County. This is another component of our Project that allows us to serve many in our community in a significant way. This past service year, we have served more than 500 clients and prevented 8 foreclosures this year.

**As we are a small Project, operating out the Nassau Bar Foundation under the Nassau County Bar Association, HOPP funding is our only source of continued funding to do this important and necessary work in our Nassau Community. With HOPP funding, we have been able to hire more staff and provide more services, outreach, and availability to the community of Nassau. Each year we can increase our clients served per year as well as our foreclosures prevented per year, by consistently working to provide clients with the most information and quick turnaround times on communication to ensure that all clients served are able to avail themselves of the best outcomes. We rely on HOPP funding to be able to hire, train and retain competent, compassionate employees who are able to continue their work only if our funding is continued.**

Across New York State, the HOPP network comprises 89 non-profit housing counseling and legal services providers who help New York homeowners, coop owners and condo owners avert homelessness and displacement by preventing avoidable mortgage and tax lien foreclosures, who combating mortgage fraud, deed theft, loan modification and partition scams, and who 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 funding this vital network end on July 15, 2024, and the Governor's budget proposes to de-fund this program even though the need for these services is more acute than ever before.

**A total of \$40 million is needed to ensure that the existing HOPP network can meet the existing need in light of the unprecedented homeowner distress across New York State, which dwarfs the rates of default seen during the last foreclosure crisis.<sup>1</sup>**

As recently as November 14, 2023, Governor Hochul signed important legislation making improvements to various aspects of the law that will benefit homeowners who have already been victimized by deed theft scams. At a bill signing ceremony at Brooklyn Law School that day, Governor Hochul spoke compellingly about how central homeownership is to the American dream. Sitting beside

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<sup>1</sup> The HOPP grantees contract years are not aligned with the State fiscal year, so funding in this year's budget is required for the network to be able to continue after current contracts end on July 15, 2024. The executive budget includes re-appropriation language that will permit last year's allocation to be used after March 31, 2024 for the existing contracts, which are not paid until after the end of the contract term, but last year's allocation will have been exhausted upon the conclusion of the current contract year on July 15, 2024.

her as she signed that legislation, along with Attorney General Letitia James, were Joseph Clarke and Jacqueline Knight, who were victims of a pernicious deed theft scam and clients of a HOPP grantee legal services agency who had successfully pursued protracted litigation that restored the title to their home. Governor Hochul praised the HOPP agency's efforts over years of litigation to restore the couple's home, but less than two months later her proposed budget would eliminate funding for the very program whose advocates restored Mr. Clarke and Ms. Knight's home after they fell prey to a deed theft scam. The recent legislation, as well as additional provisions contemplated in the proposed budget, are important protections, but without the HOPP network distressed homeowners will have nowhere to turn but to the scammers looking to prey on them, and the provisions meant to provide protections for deed theft and partition scam victims (including those contemplated in the Governor's proposed budget) will be of no use if the HOPP-funded programs representing homeowners seeking to vindicate their rights under those initiatives are eliminated.

**We are thankful for the Legislature's consistent support for HOPP and we recognize that without the restoration of funding for this program every year when funding for it was excluded from the executive budget proposals, New York would have long ago lost its investment in the country's most robust foreclosure prevention network. The executive budget's exclusion of any funding for the HOPP network—New York's only program focused on preserving existing homeownership, largely in communities of color and affecting the elderly—threatens the termination of this vital program just when it is most needed.**

- New York is continuing to see high delinquency rates, especially in communities of color. According to U.S. Census Household Pulse Survey data, as of fall 2023, an average 8% of New York homeowners were delinquent on their mortgage loans, with an average of 306,587 New York families at risk of losing their homes. These numbers show a significant increase in mortgage distress since the prior year, when the number of families at risk was 288,261. This delinquency rate dwarfs the rate of 2.2% in January 2020, right before the COVID pandemic started, and exceeds the high of 3.8% in January 2009, during the height of the financial crisis and Great Recession. Court filings are also rising, with New York State Unified Court System data showing nearly 11,000 new foreclosure case filings in the first eight months of calendar year 2023, and nearly 21,000 pending foreclosure cases across the State.
- 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. % of non-Hispanic white homeowners, as reflected in the US Census Pulse Survey data available in the fall of 2023.
- A complicated patchwork of federal and state programs has evolved in the aftermath of the pandemic that homeowners cannot navigate on their own. FHA, Fannie Mae, Freddie Mac, and conventional lenders launched different forbearance plans and loss mitigation options for distressed borrowers, and New York State 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. New York's Homeowner Assistance Fund, which has made federal funding available to assist distressed New York homeowners in a program administered by NY Homes and Community Renewal ("HCR"), which is now winding down, has reached a small portion of New York's distressed homeowners, and it has been dependent on the HOPP network to assist homeowners in accessing the program.

- 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.

Without the restoration of the funding proposed to be eliminated by the Governor's proposed budget many of those not-for-profit housing counseling agencies and legal services providers will be ending their homeownership retention services when current contracts expire on July 15, 2024 and will be forced to turn away homeowners needing their assistance, leaving New York's struggling homeowners more vulnerable to the scammers peddling foreclosure rescue deed theft schemes and distressed property consultants, whose ranks have been multiplying as real estate values are increasing in many regions of the state. Indeed, even now, with the Governor's proposed elimination of the program causing uncertainty about the continuation of the program after the current contract year (as it does every year) case acceptance at HOPP-funded agencies is inhibited, because agencies cannot in good conscience accept new cases that have no prospect of resolution prior to July 15, 2024 with the continuation of the program after that date in question. This uncertainty is also damaging to HOPP staff morale, many of whom are lost every year when the program's continuation is thrown into question by the Governor's proposal to de-fund HOPP.

**De-funding HOPP means that the Nassau Bar Foundation Mortgage Foreclosure Assistance Project seeks to exist, at least in its current iteration. Without this grant funding there is no other source of funding supporting the staff salaries and operating costs of our Project. We would also lose the ability to serve hundreds of Nassau residents facing foreclosure. Our Project has maintained a consistent presence in the Nassau County Supreme foreclosure settlement part for the better part of the last 13 years. De-funding HOPP would remove this ability to staff this table on a consistent basis and allow for walk ins and other clients to receive the benefit of our services daily and with zero cost to them.**

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. <sup>2</sup> **For our Project, if funding is not restored, 5 individuals will be**

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<sup>2</sup> In the contract year that ran from July 16, 2021 through June 15, 2022, the HOPP network of housing counseling agencies and legal services providers served 9,501 clients, with a total staff count of 473 (203.53 FTE). In the following contract year (running from July 16, 2022 through July 15, 2023), the network served 20,564 clients (more than double the number served in the prior year), and it increased its staffing levels, with the total staff count increasing to 637 (289.67 FTE) (thanks to the increased funding of \$35 million allocated in the FY 2022 budget). In the current contract year, for which the FY 2023 budget allocated \$40 million, which runs through July 15, 2024, the HOPP

**completely out of a salary and position, as we cannot operate with our current staffing without continued funding for HOPP at our current ask. In the past two years we have been able to hire more staff, bilingual staff and diverse staff who have cross training in mental health counseling and are able to effectively serve our clients who often come to us with a host of issues other than the foreclosure. These competent and dedicated staff cannot expect to have to wait with bated breath, year after year, to see if their position will continue to be funded, without risking turnover and burnout around the uncertainty of the continued funding.**

There are also a number of laws and programs in New York State that depend on HOPP network services; HOPP service providers are embedded in New York's consumer protections enacted after the foreclosure crisis, which are 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 Project works in tandem with the Court Attorney Referee and staff in the foreclosure settlement conference part in Nassau Supreme Court, to ensure that no client lacks representation who wishes to have representation for their mortgage foreclosure settlement conference, and tax lien foreclosure conferences as well. During the months coming out of COVID, the Project also represented homeowners at special Nassau County foreclosure conferences on motions that had been pending before the pandemic began. It was vital for these homeowners to have representation at that time, as many did not know about the COVID hardship declaration that was available to them and the relief entitled under same. Our ability to work seamlessly with the Court, to allow us to have Project attorneys there for all opportunities where homeowners are heard by the Court, allows them to have reliable and competent counsel with them, which can truly change the outcome of a client's story in the long run. We also work with the Court in providing updated flyers with HOPP advocates and their contact information, and the Mortgage Foreclosure Assistance Project information, and my personal contact information, is included with every mailing from the Nassau Supreme**

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network's staffing has further increased to 667 (FTE 316.47) as groups across the State continued to ramp up capacity to meet the increased need for services, and we expect the number of clients served to exceed that of the prior contract year. At the conclusion of the current contract year on July 15, 2024 the current allocation will have been exhausted, given the significant ramp up in hiring to meet the increased demand for services. These numbers are derived from HOPP grantees' data reporting to the two Anchor Partners who work with the Office of the Attorney General to administer the HOPP grants, Empire Justice Center and the Center for New York City Neighborhoods. This is consistent with industry reports showing that foreclosure starts in the first half of 2023 increased by 15 percent compared to the same period in the previous year. Indeed, New York is among the states with the most foreclosure starts, along with California, Florida, Texas, and Illinois. See Attom, Midyear 2023 U.S. Foreclosure Report, available at <https://www.attomdata.com/hnr/midyear-2023-u-s-foreclosure-report/>.

**Court to the homeowners, on notice of their upcoming foreclosure settlement conference. This early outreach allows homeowners to contact us before their conference, which can also lead to better outcomes and more options for homeowners, the more information they are armed with earlier in the foreclosure process. We are also able to refer clients directly to the NYLAG clinic which is held in Supreme Court on Mondays each week. NYLAG is another HOPP legal service provider that can assist with pro se answers and other litigation matters.**

- **Nassau Supreme Court also has a pro se help desk, where pro se litigants often appear and seek legal advice on many different matters. The foreclosure motion desk is also in the same office. Both Court offices routinely refer us clients to visit us to understand their case, options, and receive further information and referrals.**

The homeowners receiving help from HOPP agencies are working, LMI families, New Yorkers of color who were targeted for predatory loans, seniors battling a wave of foreclosures on reverse mortgages and tax and water liens, and families who have experienced illness or deaths that have landed them in financial distress. The network mitigates displacement from foreclosures, scams and mortgage distress and its advocates challenge abusive mortgage servicing by financial institutions and discriminatory lending practices such as reverse redlining, in which vulnerable communities were targeted for the most toxic of loan products. Of late, the HOPP network has been tackling the epidemic of “zombie second lien” foreclosures, pursued by debt buyers who purchased for pennies on the dollar long-abandoned second mortgages, which were marketed during the heyday of predatory lending as toxic “80/20” loans targeted to communities of color. The originating lenders abandoned those underwater loans years ago, but with appreciating real property values, speculators and private equity are now attempting to foreclose on homes saddled with these second liens, even though the claims are largely barred by statutes of limitations.

**In Long Island, and Nassau County, where property taxes are some of the highest in the state and nation, we serve a lot of elderly clients who are no longer able to afford living in their homes based on their fixed income and the rate of tax. We routinely hold information sessions in the community about housing scams, how to avoid predatory individuals and companies, and how the elderly can be especially targeted in these scenarios. We also continue to put abundant outreach into the community to share all of the resources we have for clients facing these other more complicated and nuanced issues, related to foreclosure or otherwise. Our Project serves as a “catch all” and “serve all” agency and we require the continued funding of HOPP to ensure that our communities do not lose this precious resource.**

*We **URGE** the New York State Legislature to restore \$40 million in funding for HOPP 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.*

**For more information, please contact Madeline Mullane, Esq. at [mmullane@nassaubar.org](mailto:mmullane@nassaubar.org) or 516-286-9726 (cell), 516-666-4857 (office).**