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Testimony on Behalf of Access Justice Brooklyn
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My name is Peter White, and I am the Supervising Attorney of Access Justice Brooklyn's Homeowner Assistance Program. I submit this testimony in support of continued funding for New York's Home Ownership Protection Program (HOPP), which is the sole source of state funding dedicated to 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. **We are grateful to have been included in the Governor's Executive budget proposal at the required \$40 million, and need the support of both the Assembly and Senate to ensure this critical program is funded at the same amount in the Enacted Budget.**

Access Justice Brooklyn (AJB) is a nonprofit legal services organization that has served the Brooklyn community for over 30 years, helping ensure a more accessible legal system and equitable Brooklyn. Our practice areas focus on housing security, family stability, and economic justice, and in all of these areas we provide legal advice, brief assistance, and full and limited scope representation, as well as prevention-oriented community education that aims to address legal issues before they escalate. To achieve our vision of a fairer legal system, AJB recruits, trains, and mentors hundreds of *pro bono* volunteers each year – allowing us to provide comprehensive services efficiently and at scale. In the last year, with the support of 253 volunteers, Access Justice Brooklyn provided high-quality representation, advice, community education, and other services benefiting over 15,100 individuals and families – a level of impact that would be impossible to achieve without *pro bono* support.

Our Homeowner Assistance Program has served Brooklyn homeowners since 2009, preserving the character and diversity of Brooklyn neighborhoods through comprehensive assistance that helps low- to moderate-income families – particularly long-term homeowners – remain in their homes and communities. We provide advice and represent individuals throughout the foreclosure process, including by engaging in foreclosure motion practice, good faith hearings, foreclosure defense litigation, and settlement conferences in Kings County Supreme Court. We resolve other homeowner concerns through quiet titles, partitions, and bankruptcy; representation before OATH to dismiss or reduce fines from the Department of Buildings; investigating potential deed scams; and addressing reverse mortgage issues for senior homeowners. We continue to expand our scope of services to assist homeowners with new challenges as they arise, using a holistic lens to assess cases and provide services accordingly.

In a given year, nearly 80 percent of AJB's homeowner clients are people of color, and more than one-third are older homeowners over the age of 65. Many of our clients reside in neighborhoods in Central and Eastern Brooklyn, like Canarsie and East New York, that were significantly impacted not only by the pandemic, but also by historic, predatory practices such as redlining that have had

long-term, adverse impacts on income and household wealth in these communities. Since the inception of AJB's Homeowner Assistance Program, HOPP funding has been critical not only to sustaining the program, but allowing AJB to increase the scope and breadth of the services we offer in response to the evolving, urgent issues we see among Brooklyn homeowners.

Along with our partner organizations in the HOPP network, we further urge inclusion of S.2627 (Kavanagh) / A.1625 (Solages) in the one-house and adopted budgets to enshrine the HOPP program into law, affording homeowners consistent protections moving forward. This is especially critical as the new federal administration has taken serious actions to weaken financial regulators including the Consumer and Financial Protection Bureau and the Federal Trade Commission.

Across New York State, the HOPP network comprises approximately 90 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, 2025. **A total of \$40 million is needed to ensure that the existing HOPP network is able to meet the existing need.**

For the last two years, thanks to the legislature, HOPP funding was provided at \$40 million, after having been increased to \$35 million in the 2022-2023 budget year. Prior to that, the program had been level-funded at \$20 million for more than a decade with no increases to account for increased personnel and other costs. Those increases were needed to address drastically increased rates of mortgage and property tax defaults in the wake of the pandemic, in addition to ever-increasing threats to low-and-moderate-income homeownership posed by deed theft, partition and loan modification scams. Current contracts conclude on July 15, 2025, and we are hopeful that the legislature and the Governor will ensure that when the final budget is concluded struggling homeowners facing threats from multiple fronts to stable homeownership will continue to be able to access the vital services provided by the housing counselors and legal advocates funded by the HOPP network. Without the HOPP network, homeowners have nowhere to turn except deed theft and distressed property consultant scammers.

Before the onset of the pandemic, New York already continued to battle a foreclosure crisis brought on by the last recession, but in the wake of COVID-19 the need has become even more acute as New Yorker homeowners across the state have suffered from lost employment and rental income from tenants. 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 2024, an average 6% of New York homeowners delinquent on their mortgage loans this year, with an average of 474,928 New York families at risk of losing their homes. These numbers show an increase in mortgage distress since the prior year, when the number of families at risk was 306,587. Court filings are also rising, with New York State Unified Court System data showing nearly 15,000 new foreclosure case filings in 2024, and nearly 22,00 pending foreclosure cases across the State at the end of the year.

Even more stark are the disparities between white homeowners and homeowners of color: in September 2024 a monthly average of 13% of Black and Brown homeowners were delinquent, compared to 4.4% of non-Hispanic white homeowners in New York State. Preserving homeownership is very much a civil rights and economic justice issue, as foreclosure represents not just the loss of homes, but also the stripping of equity and generational wealth from communities of color. Homes lost to foreclosure, especially in urban areas, also represent the loss of affordable rental housing, as many of the homes include affordable rental units which are lost when homes succumb to foreclosure and are purchased at auction by private equity real estate speculators. The loss of these homes to foreclosure also increases the significant disparity in homeownership rates for communities of color compared with white communities.

A complicated patchwork of federal and state programs has evolved in the aftermath of the pandemic that homeowners cannot navigate on their own, which is further complicated by the regulatory chaos emanating from Washington, where the federal regulators are under threat. 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.

The HOPP 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 to stay in their communities, preserving existing affordable homeownership. 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.

The need for these direct service HOPP-funded providers is actually embedded in New York's consumer protections enacted after the foreclosure crisis, which are now permanent features of the judicial foreclosure process:

- Lenders are required by law to send pre-foreclosure notices specifically identifying counseling agencies serving the homeowners' county — *the very agencies that depend on the HOPP program for their funding.*
- HOPP network providers are integral to NY's pioneering foreclosure settlement conference process, where they partner with the courts to staff clinics and friend of the court tables. These settlement conferences 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. Indeed, thanks to this network many homeowners facing foreclosure now have representation during the court settlement conference process, whereas prior to the network's inception most homeowners had no counsel and most foreclosure cases resulted in default judgments in which homeowners did not have access to counsel for the judicial foreclosure process.

- Amendments to the settlement conference law provide homeowners attending their first conference a chance to avert default judgment and seek help from HOPP-funded legal services providers to file an answer to the foreclosure complaint, a right which, thanks to the HOPP funded agencies staffing conferences, has allowed thousands of homeowners to assert their legal defenses and counterclaims and to ensure accountability in the judicial foreclosure process.

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.

To this end, Access Justice Brooklyn works closely with the courts through participation in several court-based programs, operated in coordination with partner legal service providers, which ensure that homeowners can obtain assistance at an early juncture in their foreclosure cases:

- Every week, AJB attorneys, legal assistants, and volunteers staff the Foreclosure Legal Assistance Group (FLAG) clinic in Kings County Supreme Court. At FLAG, AJB provides homeowners with essential advice and information about the foreclosure process after they attend pre-settlement conferences, and refers homeowners to housing counselors or other service providers as needed.
- AJB also serves homeowners through the Friend of the Court program, where we provide pro se assistance, answer questions, and offer representation in individual conferences – helping homeowners without counsel better understand the hearing process and improving the likelihood of positive outcomes in their cases.
- Along with partner legal service providers, AJB staffs the Court’s foreclosure clinic every week, assisting clients on a walk-in basis. We help homeowners draft pro se answers, short motions, and other correspondence, and often provide direct representation to these clients following our initial meetings.

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.

With \$40 million in funding the HOPP network will be able to continue its great work and combat urgent housing issues across the state, including:

- Mitigating distressed mortgage and tax foreclosures, especially those suffering from the ongoing impacts of COVID-19, preventing displacement
- Stopping scammers from stealing people’s homes and charging for loan modification services that are never provided, and stemming the tide of partition scammers preying on heirs and stripping equity from minority neighborhoods; and
- Providing representation to the state’s seniors, who have been facing a wave of reverse mortgage foreclosures in recent years, who have only recently received the consumer protections New York has provided to other residential mortgage foreclosure defendants
- Addressing the latest wave of “zombie second mortgage” foreclosures, in which debt buyers have purchased long-abandoned second mortgages marketed to black and brown homeowners as predatory “80/20” loans and are now seeking to foreclose in order to pocket the equity in those properties

AJB sees all of these issues in the context of our work with homeowners, reflecting the range of complex issues that homeowners face and underscoring the need for legal support in these cases. We have increasingly seen banks aggressively pursue reverse mortgage foreclosure actions, including in cases where banks have failed their own due diligence requirements to verify that homes remain occupied. We also see challenges specific to inheritors of a property, such as when heirs lack funds to pay off the outstanding balance of a reverse mortgage, or the means to refinance it. In some cases, there are tangled title issues to resolve before we can explore workout options in a foreclosure action. The combination of high interest rates coupled with limited financing options, such as HAF or ERMA funds, has further narrowed homeowners’ paths to home retention and required more extensive advocacy to resolve their cases.

In light of these challenges, **we strongly urge the New York State Legislature to include \$40 million in funding for HOPP in this year’s budget** – allowing the HOPP network to continue its great work combating urgent housing issues and continuing to help homeowners in distress and foreclosure. Moreover, we urge the inclusion of S.2627 (Kavanagh) / A.1625 (Solages) in the adopted budget to enshrine the HOPP program into law, affording homeowners consistent protections moving forward.

Thank you to the Senate Finance Committee and the Assembly Ways and Means Committee for your advocacy on behalf of New York homeowners. For more information, please contact Peter White, Supervising Attorney, Homeowner Assistance Program at peter@accessjusticebk.org or (718) 624-2201.

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