TESTIMONY

ON

OVERSIGHT: THE ECONOMIC IMPACT OF THE CITY'S FORECLOSURE CRISIS

PRESENTED BEFORE:

CITY OF NEW YORK, COMMITTEES ON ECONOMIC DEVELOPMENT AND COMMUNITY DEVELOPMENT

PRESENTED BY:

LINDA JUN
MFY LEGAL SERVICES, INC.

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MFY LEGAL SERVICES, INC., 299 Broadway, New York, NY 10007
212-417-3700 **www.mfy.org**

My name is Linda Jun, and I am a Staff Attorney in the Foreclosure Prevention Project at MFY Legal Services, Inc. ("MFY"). MFY provides civil legal services to more than 10,000 poor and low-income clients in New York City every year in the areas of housing, employment, consumer, seniors, and disability rights.

In September 2008, in response to New York City's growing foreclosure crisis, MFY launched its Foreclosure Prevention Project, which represents homeowners in Queens, Brooklyn and Staten Island defending against foreclosure actions and assists homeowners to obtain mortgage loan modifications to enable them to remain in their communities of choice. Since 2008, MFY's Foreclosure Prevention Project has represented hundreds of homeowners in various stages in the foreclosure process. As an organization dedicated to preserving communities through eviction and foreclosure prevention, MFY commends the Council for examining the economic impact of the foreclosure crisis.

The foreclosure crisis remains in full swing in New York. As of May 2014, almost 30,000 properties in New York City alone were in pre-foreclosure, which means that those homeowners had missed two to three months of mortgage payments.[1] Eighty percent of pre-foreclosure filings are in minority neighborhoods.[2] Most of MFY's foreclosure clients live in neighborhoods that have not recovered from the housing market collapse. Foreclosures continue to harm real estate values in the neighborhoods that were amongst those hardest hit by the crisis, which include many minority neighborhoods in Brooklyn and Queens.[3]

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[1] Jeffrey D. Klein and Helen Weinstein, "Foreclosure's Persistent Threat to New York City and its Minority Communities" *State of New York Senate*, June 6, 2014, http://www.nysenate.gov/files/pdfs/2014%20Foreclosure%20Final%20Report.pdf.

[2] *Id.*

[3] *Id.*

In 2014, foreclosure actions constituted nearly 30% of the New York Unified Court System's Supreme Court civil caseload.[4] In 2009, there was a record high of 47,664 foreclosure cases filed. Although filings dropped in 2011 after the court system and the state legislature imposed additional requirements for plaintiffs in response to the robo-signing scandal, filings again surged in 2013, with 46,696 new foreclosure filings.[5] As of October 31, 2014, 83,236 foreclosure cases were pending in New York State. Similar numbers are projected for 2014 - 2015, signaling that there is no end in sight to New York City's foreclosure crisis.[6] As a legal services provider, MFY continues to find its foreclosure prevention services in high demand. Week in and week out, we meet homeowners seeking assistance with defending a foreclosure. Thousands of New York City homeowners remain in desperate need of legal services and housing counseling organizations to help them navigate the complex foreclosure process. We ask the Council for its continued support of legal services so that organizations like ours can continue to provide homeowners with the assistance they need to preserve homeownership in New York City.

As the foreclosure crisis continues, an increasing number of New Yorkers are finding that they now owe more on their mortgage than their houses are worth. According to Zillow's 2014 fourth-quarter negative equity report, 13 percent of owner-occupied homes in the New York area had a mortgage in negative equity.[7] These homeowners were underwater by an average of $125,550, which is nearly double the national average of $67,797. Negative equity discourages home retention by incentivizing borrowers in default to walk away from their home because they

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[4] A. Gail Prudenti, "2014 Report of the Chief Administrator of the Courts: Pursuant to Chapter 507 of the Laws of 2009," *State of New York Unified Court System*, October 13, 2014.
[5] *Id.*
[6] *Id.*
[7] See Svenja Gudeell, 'Even as Home Values Rise, Negative Equity Rate Flattens', available at http://www.zillow.com/research/negative-equity-2014-q4-9223/.

owe more than the home is worth. For homeowners unable to afford to stay in their homes, negative equity prevents them from being able to sell their home because no buyer is willing to pay more than a home is worth, and banks often delay approving short sales, causing homeowners to lose potential buyers. Even for homeowners who are able to stay in their homes through loan modification, the new modified balance includes accrued legal costs, delinquent interest, and other fees, often bringing their newly modified mortgage debt to a much higher amount than the decreased home value. Negative equity is particularly harmful for homeowners who are elderly because they no longer have the option of using their homes as a source of income after retirement through either a reverse mortgage or a sale.

Aside from the significant impact on the court system and the personal distress imposed on individual homeowners and families, widespread foreclosures cause serious economic impacts throughout the city because they impact city revenue and surrounding neighborhoods. Properties in pre-foreclosure may cost the City of New York $84 million dollars in property tax losses.[8] Minority neighborhoods bear the brunt with a potential $64 million dollar property tax loss.[9] Furthermore, home values in minority neighborhoods are severely impacted by surrounding foreclosed properties, losing on average $40,927 in value, in comparison to the city's average value loss of $23,150.[10]

Although the sheer volume of New York foreclosures and plummeted market values of New York homes is overwhelming, it is critical that we remember that behind every foreclosure is a New York family in danger of losing their home. The ongoing economic impact of the foreclosure crisis is illustrated through the story of one of MFY's clients, Ms. C. Ms. C. is an

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[8] Jeffrey D. Klein and Helen Weinstein, "Foreclosure's Persistent Threat to New York City and its Minority Communities" *State of New York Senate*, June 6, 2014.
[9] *Id.*
[10] *Id.*

African-American senior in Queens who has lived in her Jamaica home for nearly 40 years. After she was laid off from her job in 2008, she cashed in her retirement savings to keep up with the mortgage payments and repeatedly contacted her bank for assistance because of her financial struggles. However, while reviewing her finances for a modification, Wells Fargo brought a foreclosure action against her in 2010. Ms. C.'s foreclosure case was eventually dismissed, but because Wells Fargo adamantly refused to modify her loan, Ms. C. was left in limbo. Once Ms. C. regained employment, she worked diligently to obtain a modification for several years, but Wells Fargo refused to cooperate in the modification process.

Eventually, with the assistance of MFY, Ms. C. was finally able to obtain a Home Affordable Modification Program ("HAMP") modification in 2014. However, this modification included four years of delinquent interest, fees, and other foreclosure-related costs, making the mortgage significantly more expensive due to Wells Fargo's costly delay. Although she had equity when she initially fell behind, the modification that allowed Ms. C. to save her home came at the cost of losing all of her remaining equity due to Wells Fargo's prolonged delay.

Unfortunately, several years into the foreclosure crisis, banks and their attorneys continue with these types of delay tactics, forcing homeowners to shoulder years of interest and fees as they try to cooperate with their bank's perplexing modification process in a desperate attempt to save their homes. In particular, people of color are disproportionately experiencing problems obtaining loan modifications.[11] A much larger share of complaints about bank misconduct that increases the likelihood of home loss come from communities of color.[12]

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[11] *See* "Here we Go Again: Communities of Color, The Foreclosure Crisis, and Loan Servicing Failures" American Civil Liberties Union and MFY Legal Services, February 24, 2015, available at https://www.aclu.org/racial-justice/here-we-go-again-communities-color-foreclosure-crisis-and-loan-servicing-failures.
[12] *Id.*

Ms. C.'s story remains an apt illustration of what it is like to apply for a modification today. It demonstrates both the vital role of a modification in saving a home but also the reality that modification often does not preserve long-term homeownership. Because HAMP modifications are based on current household income, Ms. C.'s payments are designed to be affordable now, based on her income at age 65, but may not continue to be affordable should Ms. C. retire. The structure of Ms. C.'s modification also dictates that her principal and interest payments will increase three times: when Ms. C. is ages 69, 70 and 71. The term of Ms. C.'s loan has been extended, so that Ms. C. will not have paid off the loan until she is 104 years old. At that point, or whenever she decides to leave the property, she will have to pay an additional balloon payment of $68,895.81.

Like Ms. C.'s modification, many loan modifications contain a sizable balloon payment due at the end of the loan term or when the property is sold. In MFY's experience, New York homeowners are saddled with balloon payments as high as $200,000. As a result, while modifications allow families to remain in their homes for the time being, these balloon payments make it virtually impossible for homeowners to regain equity, even if property values increase, and transform their homes from potential assets to liabilities. Due to the potential long-term unaffordability of these modifications, the economic impact of these modifications will impact New York homeownership for years, if not generations, to come.

In short, the federal government's response to the foreclosure crisis was, in many ways, designed merely to "kick the can down the road." Homeowners can avoid foreclosure now, but the programs' designs generally do not allow for homeowners to regain equity. This means that the historic means by which generational wealth has been transmitted in working class families – home equity – will not exist for the children of today's current homeowners.

MFY thanks the Council for recognizing the continuing economic impact of the City's foreclosure crisis and encourages the Council to continue to address problems arising out of and related to foreclosures in New York City. MFY is committed to working with the City Council to better protect homeowners and preserve long-term homeownership in New York City. Thank you for holding today's hearing and for considering this important issue.