



TESTIMONY FOR A PUBLIC HEARING ON:

THE CRISIS FACING BROOKLYN HOMEOWNERS

PRESENTED BEFORE:

THE JOINT HEARING TO EXAMINE THE CRISIS FACING BROOKLYN HOMEOWNERS
SEN. VELMANETTE MONTGOMERY, CHAIR

PRESENTED BY:

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MOBILIZATION FOR JUSTICE, INC.

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Mobilization for Justice (Mobilization) envisions a society in which there is equal justice for all. Our mission is to achieve social justice, prioritizing the needs of people who are low-income, disenfranchised, or have disabilities. We do this through providing the highest-quality direct civil legal assistance, providing community education, entering into partnerships, engaging in policy advocacy, and bringing impact litigation. We assist more than 10,000 New Yorkers each year, benefitting over 25,000. Mobilization’s Foreclosure Prevention Project provides advice, counsel, and representation to low-income homeowners in Brooklyn, Queens, and Staten Island.

Mortgages are complex instruments, and many of Mobilization’s clients are first-time homeowners who have been misled about loan terms, steered toward predatory loans, or taken advantage of when they face foreclosure, whether through deed theft, modification scams, or being given the run-around by their mortgage companies. In Brooklyn, these challenges are especially prevalent in the neighborhoods east of Nostrand Avenue, which account for almost two thirds of Mobilization’s cases in the borough. For this reason, bills to combat deed theft—like Senate 1688¹, introduced by Senator Montgomery—are especially important.

New York State Should Continue Funding Foreclosure Prevention Advocates

Also critical is providing homeowners with the right assistance. There is no substitute for proper counseling when buying a home, or for trustworthy legal representation during the foreclosure process. Unfortunately, both housing counselors and legal services attorneys face a funding cliff at the end of this month. Last week, the State Comptroller released a report noting the statewide progress in resolving foreclosures, and the report ends by emphasizing that for the progress to continue, housing counselors and legal services agencies must continue to receive funding. In my office, we have to tell homeowners seeking representation that we cannot take new cases because of the uncertainty concerning funding. The good news is that the Senate and Assembly budget bills passed this week recognize this need and have allotted \$20 million² for the Communities First program, which would fund housing counselors and legal services. Mobilization strongly supports these budget bills.

RPAPL Sections 1303 and 1304 and the Settlement Conference Procedure in CPLR Rule 3408 Should Permanently Apply to All Home Loans

Mobilization also applauds the Legislature’s proposal to make permanent two legal protections that are critical for homeowners: the pre-foreclosure notices contained in Real Property Actions and Proceedings Law sections 1303 and 1304, and the settlement conference procedure contained in Rule 3408 of the Civil Practice Law and Rules. The pre-foreclosure notices give homeowners advance warning of foreclosure lawsuits, direct them to housing counselors who can help resolve the default before a lawsuit is started, and inform them of their rights during the foreclosure process. The settlement conferences, which are now a mandatory part of foreclosure proceedings, bring homeowners and banks to the table in order to find a mutually agreeable resolution (like a loan modification) that allows homeowners to keep their homes.

¹ A5615/S1688.

² Aid to Localities (A2003-B / S1503-B).

As first enacted in 2008, the pre-foreclosure notices and settlement conferences were required only for high-cost and subprime loans. In response to the severity of the mortgage crisis, however, the Legislature in 2010 temporarily extended these protections to all home loans. Experience in the intervening time has shown that these protections—set to expire for the majority of loans in February 2020—are critical to keeping Brooklyn homeowners in their homes and preserving equity in the community. As the Comptroller’s report recognizes, the pre-foreclosure notices and settlement conferences also streamline the foreclosure process by providing a standardized method for homeowners, banks, judges, and court personnel to communicate with each other and evaluate options other than auctioning off someone’s home. Importantly, the settlement conference law also allows homeowners to preserve their legal defenses by extending the window for answering a foreclosure complaint.

Given how well-developed these notices and procedures are, and how much all stakeholders have come to rely on them, losing them for conventional home loans would be extremely disruptive. For these reasons, making the pre-foreclosure notices and settlement conference procedures permanent for all home loans should be a high priority, and Mobilization strongly supports the Senate and Assembly budget bills that propose to permanently extend these protections.³

We thank Senator Montgomery and the other members for holding this hearing and considering our testimony.

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³ Assembly One House Bill, Public Protection Bill Part YY; Senate One House Bill, Article VII Proposal, S1505-B, Part ZZ.