



**Testimony Before the New York City Council Committee on  
Economic Development and Committee on Housing and Buildings:  
Evaluating the City’s Purchase of FHA-Financed Underwater  
Mortgages through the Community Restoration Program**

**February 14, 2017**

Good afternoon. My name is Christie Peale, and I am the Executive Director of the Center for NYC Neighborhoods. I would like to thank Chair Garodnick and Chair Williams and members of the Economic Development and Housing and Buildings Committees for holding today’s hearing on the Community Restoration Program.

**About the Center for NYC Neighborhoods**

The Center promotes and protects affordable homeownership in New York so that middle- and working-class families are able to build strong, thriving communities. Established by public and private partners, the Center meets the diverse needs of homeowners throughout New York State by offering free, high quality housing services. Since our founding in 2008, our network has assisted over 40,000 homeowners. We have provided approximately \$33 million in direct grants to community-based partners, and we have been able to leverage this funding to oversee another \$30 million in indirect funding support. Major funding sources for this work have included the New York City Department of Housing Preservation and Development, the New York City Council, the Office of the NYS Attorney General, NYS Homes and Community Renewal, along with other public and private funders.

**City Council’s Early Support was Essential to Establishing the Community Restoration Program**

Last June, New York City made headlines as the first municipality in the country to purchase distressed mortgage notes from the federal government. This wouldn’t have happened without the initial strong support of City Council, and so I’d like to begin by acknowledging and thanking the New York City Council for your leadership in establishing the Community Restoration Program. As our thought partner and first funder, your support of this program was critical.

**Why the Community Restoration Program is Needed to Help Struggling NYC Homeowners**

The establishment of the Community Restoration Program is a testament to the power of grassroots advocacy and cross-sector collaboration in developing collective solutions to the challenges posed by the foreclosure crisis. Its existence today is the result of advocacy efforts stemming from years of frustration with the actions of banks and mortgage servicers after the financial crisis. Despite the tireless efforts of homeowners, advocates, and policymakers to encourage lenders to work with homeowners to avert foreclosure, in too many cases lenders have refused to negotiate affordable mortgage modifications with homeowners. As a result, homeowners throughout the country have spent years struggling with their

banks to obtain modifications, submitting and resubmitting paperwork, receiving inconsistent communications, and failing to make any progress.

In New York, thanks to the support of City Council, HPD, and the Attorney General, among others, the Center for NYC Neighborhoods and our Network Partners have been able to provide homeowners at risk of foreclosures with free, high-quality housing counseling and legal services. While these resources provide invaluable assistance to homeowners, they require individualized case-by-case assistance and still ultimately require the will of the lender to agree to a mortgage modification.

Additionally, federal policy changes over the last few years have resulted in large sell-offs of mortgages to private investors through the FHA's Distressed Asset Stabilization Program (DASP) and Fannie Mae and Freddie Mac's Non-Performing Loan sales programs. Through these programs, government agencies have begun selling off pools of mortgages they hold or insure at steep discounts to private equity-backed investors. According to advocates, the investors who purchase these mortgages often fail to work with families to provide meaningful modifications that will keep them in their home, especially in neighborhoods where property values are rising and it may be more profitable to foreclose on the original occupants.<sup>1</sup>

The agencies conducting these sales argue that these mortgages have no hope of any alternative to foreclosure, and that by purchasing them at a discount, investors will have greater leeway to negotiate an affordable modification agreement. However, our experience working with homeowners has demonstrated that this is often not the case. For example, Lorenzo, an Ocean Hill homeowner sought help to modify his Chase mortgage from Grow Brooklyn, one of the Centers Network Partners, and Lorenzo's attorney had every reason to believe that he would qualify for a modification. However, even though Lorenzo had submitted a completed modification application and was waiting for a response, the FHA deemed his loan "non-performing" and sold his mortgage out from under him to Lone Star. The loan is serviced by Caliber Home Loans, a servicer with a reputation for refusing to offer sustainable modifications and that is currently under investigation by AG Schneiderman for violations of federal and state servicing rules.<sup>2</sup> Caliber denied Lorenzo's original modification application on the grounds that he held too much equity in his property, and that it would be more profitable for Caliber to foreclose on his home.

### **Bringing the Community Restoration Project to Life**

In response to cases like Lorenzo's throughout the country, homeowners and advocates conducted a well-organized campaign to reform the FHA DASP and encourage sales of non performing loans to community accountable institutions that would prioritize keeping families in place over profits, a model

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<sup>1</sup> For a good summary of homeowner criticisms of DASP, see: National Consumer Law Center, Opportunity Denied: How HUD's Note Sale Deprives Homeowners of the Basic Benefits of their HUD-Insured Loans, May 2016. Available at: <https://www.nclc.org/issues/opportunity-denied.html>

<sup>2</sup> New York Attorney General Examining Private Equity Firm's Mortgage Business, New York Times, Oct. 6, 2015. <https://www.nytimes.com/2015/10/07/business/dealbook/new-york-attorney-general-examining-private-equity-firms-mortgage-business.html>

established by New Jersey Community Capital. In 2015, FHA responded with a series of reforms that allowed municipalities to purchase pools of distressed assets directly from the Federal government for the first time.

When the policy change was announced, New York City institutions were well-poised to step up, develop the program, and obtain financing to purchase notes from the FHA. The Center for NYC Neighborhoods was proud to partner with the New York City Department of Housing Preservation and Development, MHANY Management, Inc., Neighborhood Restore Housing Development Fund Corporation, and the National Community Stabilization Trust to establish the Community Restoration Program and approach the FHA to negotiate a purchase of NYC mortgages. In addition to the support of the New York City Council, and particularly Council Members Garodnick, Richards, and Miller, we also obtained funding from Goldman Sachs Urban Investment Group, LISC, and Attorney General Schneiderman. After a protracted period of negotiation, we were finally able to close on 24 New York City mortgage notes in June 2016. If it weren't for the Community Restoration Program, these mortgages would undoubtedly have been sold at auction to private equity investors.

#### **The Community Restoration Fund Today: Wins for Homeowners, Uncertain Federal Landscape**

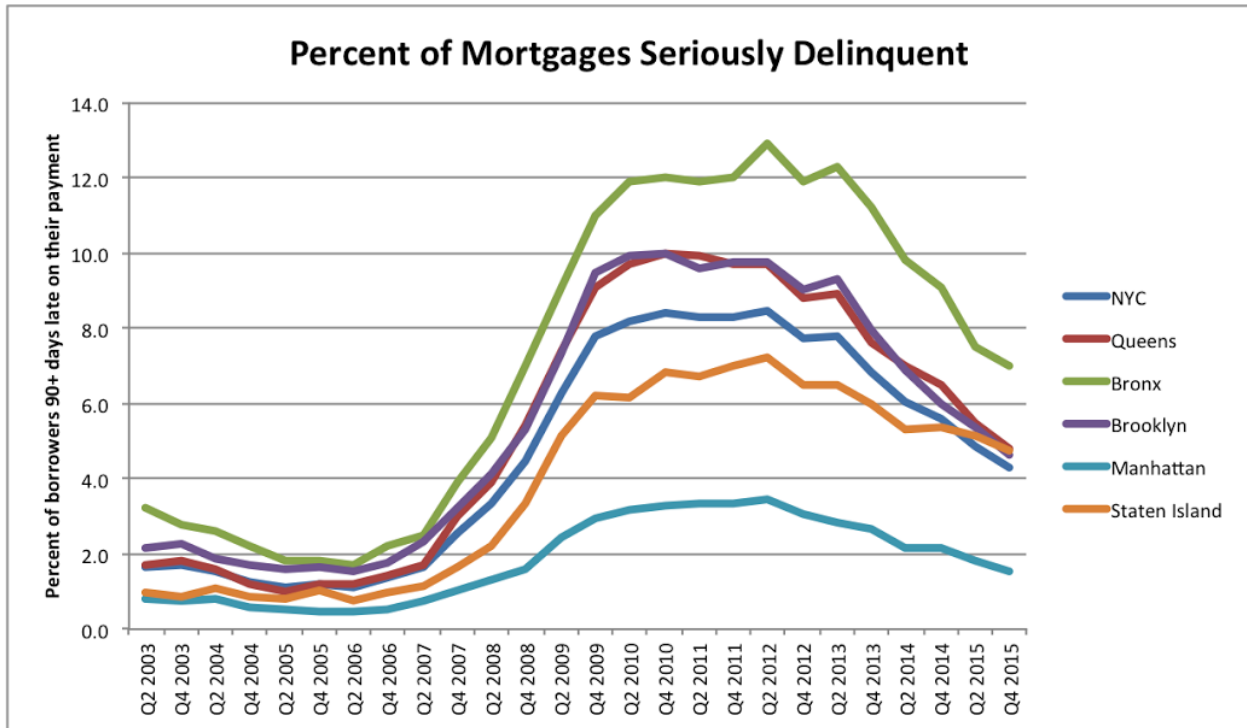
The 2016 initial purchase was a major victory for New York City and a source of hope for cities nationwide that continue to struggle to overcome the impacts of the foreclosure crisis. As you have heard today, the initial results of the program are very promising, with several affordable modifications secured for New York City families who the FHA had previously written off as lost causes, and many more on the way.

The next step for the fund is to acquire more mortgages, and we continue to engage the FHA, Fannie Mae, and Freddie Mac to sell us more pools. However, in November 2016, after seeking to purchase an additional FHA pool, we were informed that the FHA was temporarily halting its note sales program, and it is unclear what shape it will take when it resumes.

Of course, the change in presidential administration creates an added level of uncertainty as to the future of federal mortgage policy, and specifically whether and how note sales programs will incentivize sales to nonprofits and municipalities. We will hope for the best, and in the meantime, work to identify alternative sources of mortgages and properties so we can continue to expand the program.

#### **The Need for Foreclosure Prevention Services Remains High**

While the the future of federal note sale programs is uncertain, the need for foreclosure prevention services remains high: after all, the Community Restoration Program will not be able to purchase every NYC mortgage at risk of foreclosure. Despite fewer new foreclosure filings, NYC homeowners are still experiencing the effects of the great recession: today the seriously delinquent rate is about three times higher than it was in the early 2000's, meaning that significantly more homeowners are 90 or more days late on their mortgage than before the collapse of the housing market.



Source: NY Federal Reserve

In addition to its support of the Community Restoration Program, City Council has been a generous supporter of foreclosure prevention services. Through the Mortgage Foreclosure Prevention Program, City Council funds \$1 million annually to the Center for NYC Neighborhoods to regrant to our Network Partners and support our foreclosure prevention work. We thank the members of the City Council for your ongoing support of our program.

Additionally, we would like to ensure that the City Council is aware that our largest source of foreclosure prevention services funding, the Attorney General’s Homeowner Protection Program, will end in September of 2017. This funding stream came from one-time settlements with financial institutions, and there is no possibility of renewing the program beyond September of this year. This program provided \$20 million in annual statewide funding for foreclosure prevention services, including \$9 million for NYC, and the loss of this funding would be a major blow to homeowners throughout the state.

Therefore, the Center for NYC Neighborhoods has joined the Protect NY Homes campaign to rally for inclusion of this funding within the 2017-2018 State budget, and we encourage the City Council to support our budget ask of \$10 million for this state fiscal year (as funding is secured for the first half of the year), with \$20 million annually going forward.

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Once again, I would like to thank the members of the City Council for your strong support of NYC homeowners at risk of foreclosure. Thank you for the opportunity to testify today.