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# Transforming Foreclosed Properties Into Community Assets

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# Introduction

The number of houses entering foreclosure has increased dramatically over the past few years in communities across the country as a result of the boom in risky subprime lending and sharp drops in home prices in most metropolitan housing markets. Policy responses at the state and federal level largely have focused on the prevention of future foreclosures by restricting the issuance of certain high risk loans, imposing foreclosure moratoriums, funding foreclosure prevention counseling, and facilitating refinancings by private lenders or government agencies. Despite these efforts, however, the flood of new foreclosures is likely to continue wherever market prices continue to decline, adjustable interest rates continue to reset and mortgage borrowers face economic hardship. Even the Housing and Economic Recovery Act of 2008 (the Dodd-Frank bill),<sup>1</sup> the most ambitious legislative effort to prevent foreclosures to date, is unlikely to do much to ward off a continuing period of elevated foreclosure activity.<sup>2</sup>

With credit markets in crisis at the same time that more foreclosed properties are entering the market, foreclosed properties increasingly are unlikely to be purchased by responsible homebuyers or long-term investors. The result instead has been a glut of vacant homes owned by lenders (“real estate owned” or REO properties) as well as absentee ownership, short-term speculation (“flipping”) and abandonment. Each of these outcomes threatens to impose burdens on neighboring property owners and local governments and to trigger further cycles of neighborhood disinvestment and abandonment in the hardest hit areas.

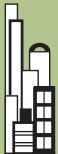
Across the nation, local governments are experimenting with new strategies to purchase and rehabilitate, land bank or direct the resale of properties in foreclosure to new owner-occupants in order to prevent blight, maintain homeownership rates, or preserve affordable housing. Unfortunately, these responses are understudied and the lessons learned in one jurisdiction often are not being communicated to others. Despite a shared sense of urgency, there is little understanding of how to avoid common pitfalls or bring successes to scale.

On May 2, 2008, the Furman Center for Real Estate and Urban Policy at New York University, with support from the Ford Foundation, convened leading housing researchers, policymakers, lenders, and non-profit housing organizations to discuss how best to leverage public and private resources to put foreclosed properties to productive

<sup>1</sup> Housing and Economic Recovery Act of 2008, Pub. L. No. 110-289, 122 Stat. 2654 (2008).

<sup>2</sup> The Congressional Budget Office estimated in May, 2008 that fewer than 440,000 loans were likely to be refinanced under the “Hope for Homeowners” FHA loan guarantee program contained in the Act. Congressional Budget Office.

2008. “Cost Estimate; Federal Housing Finance Regulatory Reform Act of 2008.” Available at [http://www.cbo.gov/ftpdocs/93xx/doc9366/Senate\\_Housing.pdf](http://www.cbo.gov/ftpdocs/93xx/doc9366/Senate_Housing.pdf). According to the Washington Post, HUD more recently estimated that only 20,000 applications for relief under the program would be submitted in the first of its three years of planned operation. Merle, Renae. “Foreclosure Relief Is Getting Lost In Fine Print of Loans.” November 13, 2008. Washington Post.



reuse that will help stabilize neighborhoods.<sup>3</sup> In this report, we review the main topics discussed at the May 2 Roundtable and report the insights of the group convened concerning problems in the market for foreclosed properties, the opportunities for interventions designed to ensure that foreclosed properties are productively reused, and a near term agenda for further research to aid implementation of these efforts in communities across the country. Supplemental research by the Furman Center staff provides additional context and information about these topics.

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<sup>3</sup> For further information about the May 2 Roundtable, including the agenda and presentations, see <http://furmancenter.nyu.edu/events/ForeclosedPropertiesRoundtable.htm>.





## Part I: Framing The Problem: The Market for Foreclosed Properties

The justification for government intervention in the market for foreclosed properties is rooted in the negative impacts foreclosures impose on the communities in which they occur. Examples of these negative impacts include:

- Foreclosures often result in long periods of vacancy which, in turn, can result in visible signs of neglect, reducing the value of neighboring properties;<sup>4</sup>
- Foreclosures increase the supply of housing on the market, lowering the value of similar properties;
- Foreclosures of multi-unit properties leave tenants at risk of eviction, even if they are current with their rent;<sup>5</sup>
- Properties left vacant and abandoned as a result of foreclosure can attract criminals, diminishing the quality of life of neighbors in non-financial ways;<sup>6</sup>
- Properties left vacant and abandoned as a result of foreclosure require increased direct expenditures by local governments for added police and fire protection, emergency repairs and demolition;<sup>7</sup>
- The displacement of employed residents and erosion of property values results in reduced income and property tax collection by local governments.

These impacts are not inherent to the foreclosure process itself, but result from the market and institutional context in which foreclosures occur. If foreclosures are infrequent and geographically dispersed, the buyers of foreclosed properties are aspiring homeowners or long-term investors interested in responsible management of rental properties, and foreclosed properties do not remain vacant very long before auction or later resale, foreclosures are unlikely to burden the surrounding community in any significant fashion. These ideal conditions are, of course, not the backdrop in many American communities today, as foreclosures threaten neighborhood stability in many of the ways listed above. Understanding how actual markets diverge from this ideal is key, then, to targeting efficient intervention. Below is a brief discussion of several of the factors that influence the extent to which foreclosures may impose negative impacts on a community: the overall local real estate market, lender/servicer behavior, coordination problems and private investor behavior.

<sup>4</sup>For research regarding the impacts of foreclosures on neighborhood property values, see Schuetz, Jenny, Vicki Been and Ingrid Ellen. 2008. "Neighborhood Impacts of Concentrated Mortgage Foreclosures." *Journal of Housing Economics* (forthcoming); Immergluck, Dan and Geoff Smith 2006. "External Costs of Foreclosure: Impact of Single-Family Foreclosures on Property Values." *Housing Policy Debate* 17(57); and Harding, John P., Rosenblatt, Eric and Vincent, Yao. 2008. "The Contagion Effect of Foreclosed Properties." Available at SSRN: <http://ssrn.com/abstract=1160354>.

<sup>5</sup> A Furman Center analysis found that most foreclosure filings in New York City in 2007 were of multi-unit buildings, leaving more than 15,000 renter households at risk of eviction. See [http://www.furmancenter.nyu.edu/documents/FurmanRelease\\_RentersinForeclosure\\_7\\_14\\_2008.pdf](http://www.furmancenter.nyu.edu/documents/FurmanRelease_RentersinForeclosure_7_14_2008.pdf).

<sup>6</sup> For research regarding the connection between foreclosure and crime, see Immergluck, Dan and Geoff Smith. 2006. "The Impact of Single-family Mortgage Foreclosures on Neighborhood Crime." *Housing Studies* 21(6): 851–866.

<sup>7</sup> For further information on costs to municipalities, see Apgar, William and Duda, Mark. 2005. *Collateral Damage: the Municipal Impact of Today's Mortgage Foreclosure Boom*. Minneapolis: Homeownership Preservation Foundation.



## The Local Real Estate Market

The share of foreclosed homes that ends up in REO inventories and the length of time it takes a bank to sell an REO property depend on the strength and trajectory of the local real estate market. The strength of the real estate market, in turn, depends in part on the inventory of competing homes available for purchase, some portion of which is made up of existing REO inventory and foreclosed properties going to auction. If REO inventories grow (i.e., if voluntary repossessions or foreclosures resulting in REO occur more quickly than lenders can liquidate existing REO inventories), the glut of additional available properties will further depress an already stalled market.

## Lender/Servicer Behavior

The procedures and business strategies of the foreclosing lender also help determine how long a property will remain in REO inventory. In general, REO owners seek to maximize what they recoup from foreclosed property. How an owner assesses the value of its REO property and its predictions about how quickly a local residential real estate market will improve will determine when and at what price it is willing to sell. If an REO owner is unwilling to sell a property at the current market price with the expectation that it will be able to command a higher price at some point in the future, the property may remain vacant for an extended period, increasing the chance that its foreclosure will negatively impact surrounding properties. If REO owners are willing to sell properties for sharp losses, the effect can be a flood of discounted homes that further depresses an already weak market.<sup>8</sup>

Possibly inefficient behavior by REO owners and the challenges of working with owners to encourage disposition of REO properties into non-profit or local government-sponsored property reuse programs are explored in more detail in Part III.

### WHY THE FOCUS ON REO PROPERTIES?

Lenders and servicers are passive homeowners; their REO properties typically remain vacant and, accordingly, vulnerable to neglect, vandalism, theft, criminal use and illegal occupancy while they remain unsold. Communities with high concentrations of foreclosures are likely to end up with correspondingly high concentrations of vacant REO properties.

As a result of securitization, most REO properties are owned not by banks, but by trusts operating for the benefit of the investors who hold the securities backed by the foreclosed mortgage. The trusts in turn contract out the day-to-day management and disposition of REO properties to specialized servicers. As further described in Part III, securitization presents additional challenges to REO acquisition and disposition efforts.

<sup>8</sup> For example, the Sacramento Association of Realtors reported that 65.5% of Sacramento home sales in May, 2008 were of REO homes, fueling a large increase in the number of home sales that month over May, 2007, but likely driving the 34.2% decrease in the median sales price compared to May, 2007. See Sacramento Association of Realtors. 2008. "May continues with increased escrows; REO properties pull prices down." Press release, May 8, 2008. [www.sacrealtor.org/documents/about/statistics/pr\\_0508.pdf](http://www.sacrealtor.org/documents/about/statistics/pr_0508.pdf).



## Coordination Problems

Coordination problems resulting from high concentrations of available REO properties further constrain the market for foreclosed properties. On a block filled with abandoned properties, any single buyer will be subject to the continued negative impacts of these properties unless the neighboring properties are purchased and redeveloped simultaneously. Because REO properties within even a small geographic area are likely to be managed by different servicers, coordinated redevelopment by the property sellers or purchasers is unlikely.

Foreclosed condominiums pose similar coordination challenges because of the communal nature of certain condominium expenses. If a significant number of units are in foreclosure or are in REO (and thus unlikely to be paying their condo fees), the financial burden of the entire building's common charges falls on the remaining residents, making the available condominium units less attractive to potential purchasers.

## Private Investor Behavior

Of course prying a property from REO inventory does not guarantee that it will be productively reused. That decision is ultimately the purchaser's. Several types of for-profit investors may acquire property out of REO:

- Rehab investors intending to improve the physical condition of the property in order to sell or lease it.
- Investors intending to subdivide a property (legally or illegally) to rent several units to tenants.
- Short term speculators who acquire properties at rock bottom prices intending to "flip" them after little or no improvement of the property.<sup>9</sup>
- Long term speculators who acquire properties to be leased to tenants until resold.
- New homebuyers purchasing the properties for their personal residences.

If, like a typical institutional REO holder, a speculator purchaser keeps the property vacant while waiting for resale, the sale out of REO does not mitigate the potential for negative impacts. In fact, if the investor does not have, or is unwilling to commit, the capital necessary to responsibly maintain the condition of a property or even pay its property taxes, the sale out of REO can speed a property's decline and transformation into a neighborhood disamenity.

In extreme cases, all of the factors described above conspire to push a neighborhood experiencing a concentrated wave of foreclosures into a rapid spiral of decline. The surge of available properties overwhelms an already sluggish market. Properties either enter REO

<sup>9</sup> A recent story on CNNMoney.com featured so-called "vulture investors" that purchase properties out of REO inventories and at foreclosure auctions in bulk at very low prices. According to the president of one such investor, Econohomes of Austin, Texas, it has purchased 500 properties over the past two years (primarily in Michigan and Ohio) at an average cost of less than \$5000 and sells them at an average price of \$25,000, after making few or no improvements. Christie, Les. 2008. Vulture real estate investors swoop in. [http://money.cnn.com/2008/06/30/real\\_estate/vulture\\_investors\\_take\\_flight/index.htm?postversion=2008070507](http://money.cnn.com/2008/06/30/real_estate/vulture_investors_take_flight/index.htm?postversion=2008070507).



inventories or, if lenders are willing to accept a loss, are scooped up by discount investors. In either case, the properties are not occupied by the owner. If properties sit vacant or are poorly managed, they deteriorate, are vandalized and stripped of appliances, copper pipes, metal siding and wiring, and harbor crime, all of which further depress their value and that of neighboring properties.

## Existing Research on the Market for Foreclosed Properties

So how does the market for foreclosed properties in fact function? Despite the large increase in the number of foreclosures and REO properties and the potential impacts these properties can have on surrounding communities, surprisingly little academic research is available analyzing this market. The two most significant research projects on the market for foreclosed properties are described below.

### Analysis of Massachusetts REO properties

A research team led by Paul Willen of the Federal Reserve Bank of Boston analyzed deed data in Massachusetts to determine the length of time lenders retained ownership of REO properties following foreclosure auctions, and to assess the characteristics of properties that entered and remained in REO.<sup>10</sup> The analysis revealed the following about properties entering foreclosure in Massachusetts between 1990 and 2007:

- More than 25% of foreclosed properties either never became REO (because they were purchased by someone other than the lender at auction) or were sold out of REO inventory within the same quarter that the foreclosure auction occurred.
- Another 50% of foreclosed properties were sold out of REO during the first year following the foreclosure auction, leaving less than 25% remaining in REO inventory for longer than one year. 10% of foreclosed properties still remained in REO inventories three years after auction.
- During the recent up-market period between 1995-2003, lenders had a significantly easier time selling REO properties, resulting in much lower REO retention rates than those experienced during the 1990-1994 down-market period.
- Lenders had an easier time selling REO properties in higher income areas; consequently, REO retention rates were higher for properties in low and moderate income communities. This difference was particularly strong during the 1990-1994 down-market period.
- REO retention rates were significantly higher for condominiums than for multi-family or single family properties, although much of this difference may have been lingering fall-out from the condo-bust the area suffered in the 1990s. More than 20% of all condominiums that were foreclosed upon remained in REO inventories three years after auction. Of the approximately 5% of all foreclosed properties remaining in REO inventories for at least five years, 60% were condominiums.

<sup>10</sup> For further detail, see <http://furmancenter.nyu.edu/events/documents/Session.1.willen.pdf>.



- Completed foreclosures in 2006 and 2007 were disproportionately concentrated in low or moderate income and minority communities, more so than the foreclosures completed in the worst years of the last local property slump (1991-1992). Specifically, although accounting for only about 17% of all owned homes, low or moderate income communities contained approximately 44% of all completed foreclosures in both 2006 and 2007.
- Properties that were foreclosed upon were disproportionately likely to be multifamily properties, which are heavily concentrated in low or moderate income communities.

### **Analysis of Cuyahoga County, Ohio REO properties**

Claudia Coulton, Kristen Mikelbank and Michael Schramm of the Center on Urban Poverty and Community Development at the Mandel School of Applied Social Sciences of Case Western Reserve University analyzed Cuyahoga County sheriff's deeds executed between 2000 and 2007 to calculate REO retention rates, identify the types of purchasers acquiring properties at foreclosure auctions and compare the price of a property's first sale after auction to county estimates of market value.<sup>11</sup> In contrast to the hot market Massachusetts (and Boston in particular) enjoyed from the mid 1990s to 2005, the Cleveland area market saw only modest growth in home prices during this period and continues to experience significant employment and population loss.<sup>12</sup>

The research revealed the following about the market for foreclosed properties in Cuyahoga County:

- Foreclosures are highly concentrated in certain neighborhoods, primarily low income and minority communities.
- From 2000 to 2007, the share of foreclosed homes that entered REO inventories for some period of time increased from about 64% to 90%.
- From 2000 to 2007, the share of foreclosed properties that entered the REO inventories of non-bank mortgage companies or non-local banks in particular rose from about 34% to over 57%.
- Of properties entering REO inventories between 2000 and 2002, about 85% were sold out of REO within one year of foreclosure; of properties entering REO in 2006, however, less than 65% were sold out of REO within the first year. Incomplete data for properties entering REO inventories in 2007 suggests an even higher retention rate for those properties.

<sup>11</sup> For further detail, see Coulton, Claudia, Kristin Mikelbank and Michael Schramm. 2008. Foreclosure and Beyond: A report on ownership and housing values following sheriff's sales, Cleveland and Cuyahoga County, 2000-2006. Cleveland: Center on Urban Poverty and Community Development, Mandel School of Applied Social Sciences, Case Western Reserve University.

<sup>12</sup> The U.S. Census Bureau estimates that the City of Cleveland lost more population from 2000 to 2007 than any other city in the country except for hurricane-ravaged New Orleans. See U.S. Census Bureau. 2008. "New Orleans Population Continues Katrina Recovery; Houston Leads in Numerical Growth." Press release, July 10, 2008.

<http://www.census.gov/Press-Release/www/releases/archives/population/012242.html>.



- The longer a property remained in REO, the larger the price discount. For properties sold at foreclosure auctions in 2006, first resales that occurred that same year brought 63% of county-estimated market values. First resales that occurred in 2007 brought only 44% of estimated market values. Both of these market value resale ratios were significantly lower than corresponding ratios for properties foreclosed upon in earlier years.<sup>13</sup>
- Almost half of all first resales of foreclosed homes in 2008 (through March 31) were for \$10,000 or less, compared to less than 5% of first resales in 2005. In the City of Cleveland, more than 60% of all 2008 first resales (through March 31) were for \$10,000 or less. A large number of these properties remain vacant, are tax delinquent within the first half year after the resale and are resold in a short period of time.
- Several out of town investors, including Econohomes, have purchased multiple foreclosed properties for less than \$10,000.

Willen's and Coulton's work distinguish local market conditions from the national foreclosure trends, which is crucial for crafting policy responses. In both Massachusetts and Cuyahoga County, for example, the concentration of REO properties in lower income areas and the lengthening REO retention periods confirm the need to focus attention on these neighborhoods. In Massachusetts, the overrepresentation of condominiums among persistent REO properties indicates a specific market failure that may require special attention. The Coulton team's work helps quantify the activity of "vulture investors" by identifying the most frequent purchasers of very low-cost homes out of REO, and their data regarding the alarmingly high number of sales under \$10,000 points to the near collapse of the market for these foreclosed homes in Cleveland.

Though these analyses offer crucial glimpses into the workings of the market for foreclosed properties, they leave many important questions unanswered. In Massachusetts, for example, we need to know who is buying properties out of REO. In Cuyahoga County, it would be helpful to know whether different housing types show different post-foreclosure resale patterns. In both regions, we need to know what becomes of the families forced to leave their homes. We list several other areas of further research needs in Part V.

<sup>13</sup> For a more general investigation of the relative appreciation rates of foreclosed properties, see Pennington-Cross, Anthony. 2006. "The Value of Foreclosed Property." *Journal of Real Estate Research* 28(2): 193-214.



## Part II: Framing The Solution: Opportunities For Intervention

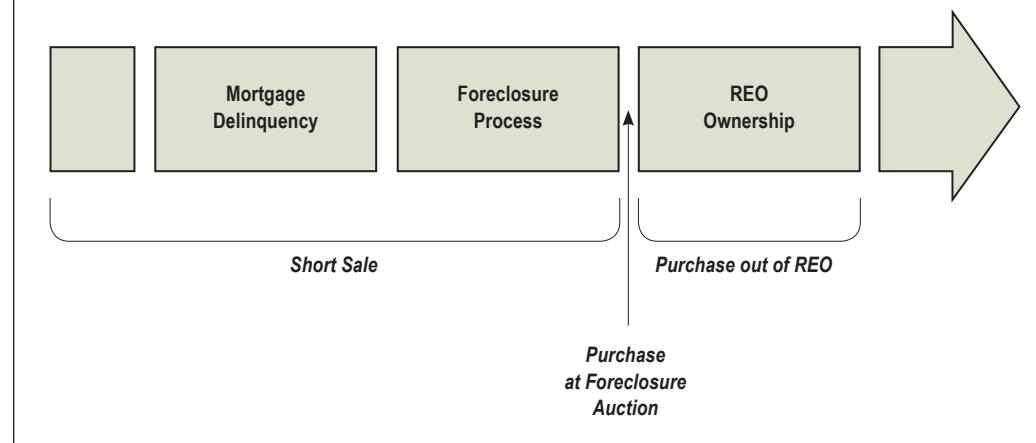
In response to the negative spill-over impacts of foreclosures described in the previous section, many communities are mobilizing not only to prevent foreclosures, but also to intervene in the local market for properties that have already been foreclosed upon. Government and non-profit interventions in the market for foreclosed properties can take many forms. The most ambitious programs generally include an acquisition component, which puts the property under the direct control of the government or non-profit, and a disposition component, which returns the property to productive reuse. Other interventions aim to mitigate the negative impacts of foreclosed properties by improving their management by private owners (defaulting homeowners or banks) until they can be channeled into government or non-profit programs or absorbed by an improving real estate market. Below, we take a closer look at each of these stages of intervention. We also review some of the factors policymakers must consider when designing interventions, including the state of the local real estate market and the financial and institutional capacity of local government and non-profit participants.

### Property Acquisition Opportunities

Acquisition efforts reduce the stock of vacant properties and transfer the control over, and responsibility for, vacant properties to non-profits and governments. Cognizant of the negative externalities vacant properties can impose, and motivated by non-financial factors, these new owners can directly address some of the most serious negative impacts through maintenance, rehabilitation, resale to responsible owners, or demolition.

The path from owner-occupancy to REO vacancy provides several theoretical points at which governments and non profits can intervene to acquire properties (see Figure A):

Figure A: Opportunities for Intervention





## Pre-foreclosure

As homeowners and lenders accept the realities of depressed real estate markets and the growing expense of foreclosure, non-profits and governments may increasingly find opportunities to purchase homes or broker sales to third parties. These opportunities may arise prior to the completion (or even commencement) of foreclosure proceedings and before the property ever enters REO or becomes vacant. Unlike loan modifications, such pre-foreclosure sales to, or arranged by, local governments and non-profits focus on reuse of the property, not on keeping the current homeowner in his or her home.

Because of falling property values and the low down payments required by many lenders in recent years, a homeowner in real danger of foreclosure will likely owe more on his or her mortgage than his or her home is worth. In such cases, local governments or non-profits looking to prevent a foreclosure-induced vacancy through a pre-foreclosure sale may be able to negotiate a “short sale,” in which the mortgage lender agrees to allow a sale of the property for less than the amount of the outstanding mortgage balance. Short sales are typically negotiated between a homeowner, a prospective purchaser and the loss mitigation department of a servicer or lender, often with the help of an experienced broker. The incentive for the lender is the certainty of receiving a substantial portion of the outstanding loan balance immediately rather than facing the risk of receiving a smaller amount later if it must foreclose on the mortgaged property. In return for this guaranteed repayment, the lender typically forgives the shortfall between the negotiated-purchase price and the outstanding mortgage balance, allowing the homeowner to walk away debt-free (though not without damaging his or her credit history).<sup>14</sup>

### THE PLUSES AND MINUSES OF PRE-FORECLOSURE PURCHASES

#### **Advantages:**

By circumventing a lengthy foreclosure process, properties can be redirected to sustainable ownership before physically deteriorating. If sales are brokered directly to new end-users, the sales will not tax the capacity of non-profits and local governments to own and redevelop properties.

#### **Drawbacks:**

Because they need to be individually negotiated, pre-foreclosure sale opportunities (and short sales in particular) are difficult to identify, time consuming and impractical to arrange in large numbers.

<sup>14</sup> As a result of the Mortgage Forgiveness Debt Relief Act of 2007 (Pub. L. No. 110-142, 121 Stat. 1803 (2007)), most mortgage debt forgiven by lenders in 2007, 2008 and 2009 will no longer be subject to income tax. For more information, see <http://www.irs.gov/irs/article/0,,id=179073,00.html>.



In addition to first mortgage holders, the holders of subordinate liens (e.g., second mortgages) must also consent to a short sale, which requires that they too recover a portion of their outstanding balance. For the many highly leveraged borrowers who relied on piggyback loans to buy their homes, this means convincing at least two lenders to cooperate.<sup>15</sup> Thus, despite the dire conditions of many real estate markets, opportunities for short sales may be comparatively limited.

### At the Foreclosure Auction

Non-profits and governments can, theoretically, bid at foreclosure auctions just like any other investor. However, buying at auction allows very little opportunity for assessing the physical condition or title of a property and requires significant financial flexibility because bid prices are unpredictable and mortgage financing is generally unavailable for such purchases. Non-profits and local governments, therefore, may not have the appetite for risk or financial capacity necessary to compete with private bidders.

### THE PLUSES AND MINUSES OF ACQUISITION AT AUCTION

#### **Advantages:**

Purchasing properties before they enter REO inventories may prevent some physical decline and prevent purchases by speculators.

#### **Drawbacks:**

Foreclosure sales can be risky for any buyer because of limited opportunities for home inspection and title searches. Buying property at foreclosure auction requires financial flexibility most non-profits don't have.

In any case, as illustrated by the increasing rate of REO ownership reported by Coulton and her colleagues, at least in some markets, buying at auction appears to be increasingly unattractive for investors of any type. Fewer potential buyers are willing to make bids higher than the foreclosing lenders' reserve price at auction, probably because of the high leverage lending of recent years and falling property values.

<sup>15</sup> In 2006, for example, researchers from the Federal Reserve Board conservatively estimated that about 24% of all homebuyers obtaining mortgages in 2006 used a piggyback loan. See Avery, Robert B., Kenneth P. Brevoort and Glenn B. Canner. 2007. "The 2006 HMDA Data." *Federal Reserve Bulletin* 93: A73-A109.



## Post-Auction: Out of REO Ownership

In most markets, REO inventories offer local governments and non-profits the most straightforward opportunity to acquire foreclosed homes. Interventions at this point can take the form of ordinary negotiated purchases of single properties or bulk purchases of several properties to maximize impact, overcome coordination problems and reduce transaction costs.

Available properties are often listed with local brokers, so are easy to identify and research. Prices are negotiated prior to the closing, so financing can be assembled or budgeted in advance.

Practitioners report that lenders and servicers have been slow to acknowledge the diminished market values of their REO properties as the real estate market continues to decline in most areas, complicating purchase price negotiations and preventing increased intervention by local governments and non-profits. This observation raises the possibility of another form of intervention at this point in the foreclosure timeline: state statutes penalizing lenders and servicers for turning down offers to purchase their REO properties due to overestimates of value. Such a law, inspired by public takings (eminent domain) price offer rules, could fine a lender or servicer if it rejects a documented, good faith offer to purchase one of its REO properties but later sells the property for a lesser amount within a certain window of time.<sup>16</sup>

### THE PLUSES AND MINUSES OF ACQUISITION OUT OF REO

#### **Advantages:**

Available properties are easy to research and identify. Properties can potentially be purchased in bulk and at negotiated discounts.

#### **Drawbacks:**

Many properties will already have suffered significant physical degradation due to a period of vacancy. Lenders and servicers may be unrealistic in negotiating sales prices.

<sup>16</sup> Eminent domain procedure laws in several states require the condemning authority to pay the attorneys fees and expert witness expenses of property owners contesting valuations if the court's valuation exceeds the offer from the condemning authority by a certain margin. A proposed 2006 amendment to Missouri's eminent domain law (introduced as Senate Bill 560) would have further provided that "[if] the amount of damages awarded to the condemnee, exclusive of interest and costs, exceeds the amount of the original offer [from the condemning entity] by 50% or more, the condemning entity shall pay the condemnee's litigation expenses, including court costs and attorney's fees, in an amount not to exceed \$2,500 and double damages on that portion of the damages that exceeds the amount of the original offer by 20%."



## Tax Delinquency: Public Foreclosure

Local governments can foreclose on property owners who are delinquent in their property taxes or other government levies for a minimum period of time specified in the local tax lien statute. However, lenders and servicers are unlikely to allow a mortgaged property to be lost to tax foreclosure if it has significant value, and will ensure that property taxes are paid while a loan is outstanding (either by requiring tax payments to be escrowed or by paying them directly themselves). Similarly, if a property retains significant value, lenders or servicers will pay taxes due on the property while a property is held in REO.<sup>17</sup> Accordingly, in most areas, it is properties that have been sold out of REO inventories to individual owners or investors lacking the capacity or intent to maintain their new properties that are most likely to be subject to tax foreclosure.

On a practical level, the practice many jurisdictions have of recouping unpaid property tax revenues in the near term by selling tax liens rather than foreclosing on properties themselves effectively eliminates the opportunity for non-profits and local governments to use tax foreclosure as an acquisition tool, because the government no longer holds the lien. Jurisdictions without judicial tax foreclosure proceedings (generally thought to be slower and less efficient than administrative proceedings) may have difficulty disposing of properties once acquired due to title concerns. As described in further detail in the Genesee County Land Bank case study in Part IV, reforming tax foreclosure laws to address these problems and expedite the proceedings can open up new opportunities for pulling properties out of the hands of speculators.

### THE PLUSES AND MINUSES OF ACQUISITION VIA TAX FORECLOSURE

#### **Advantages:**

Judicial tax foreclosure processes wipe out other liens by operation of law, cleaning title of all outstanding mortgages and other claims. Acquisition costs can be very low, though the properties obtained may carry liabilities (e.g., demolition costs).

#### **Drawbacks:**

Many properties will already have suffered significant physical degradation due to an extended period of neglect. Properties acquired through some states' non-judicial tax foreclosure processes may have uninsurable title because of due process concerns.

<sup>17</sup> Jim Rokakis, treasurer of Cuyahoga County reported at the May 2 Roundtable that even in Cleveland, where many REO properties have very low market values, lenders and servicers were generally paying their property taxes. In Genesee County, Michigan, however, Treasurer Dan Kildee reports that lenders often allow properties to be taken by tax foreclosure because extremely low values may not justify the carrying costs lenders will need to incur during REO ownership.



## Land Banks

A land bank is a governmental or quasi-governmental entity with the authority, expertise and capacity to own or manage large numbers of properties acquired by governments or non-profits, often as the result of tax foreclosure. By acquiring properties through a land bank, communities can pull properties off the market and out of the hands of “vulture investors” and can responsibly manage and maintain vacant properties and control their disposition back into the market. Although not a new concept (the earliest urban land banks date back to the 1970s), efforts to create or expand local land banks have gained new urgency in recent years in response to the proliferation of foreclosures and vacant properties.

Land banks can take many forms. The Fulton County/City of Atlanta Land Bank Authority effectively operates like a literal bank, accepting land “deposits” from local governments and non-profits that pay fees to the land bank to manage properties until they are “withdrawn” to be disposed of by the depositor for affordable housing or other public uses. Other land banks, like the Genesee County Land Bank (described in detail in Part IV), serve as redevelopment bodies, accumulating property that they themselves aggregate and market for comprehensive reuse. Some land banks acquire or manage only vacant land, others can own property with newly constructed structures or older structures that can be “mothballed” for future use or rented out to tenants on a short term basis. The operation of a land bank can be funded through property sales and interest and penalties assessed against delinquent property taxes, or through the fees and contributions of the entities depositing properties.

Although similar in some respects, land banks are not the same as “community land trusts,” which generally are non-governmental, grassroots, non-profit organizations that acquire and own land which is then provided to individual homeowners pursuant to long term land leases. The terms of each lease limit the homeowner’s resale price and guarantee long term affordability of such properties.<sup>1</sup>

For more information on establishing land banks, see Frank S. Alexander, Land Bank Authorities, A Guide for the Creation and Operation of Local Land Banks (New York City: Local Initiatives Support Corporation 2005), available at [www.lisc.org/content/publications/detail/793/](http://www.lisc.org/content/publications/detail/793/).

<sup>1</sup> For more information about community land trusts (as opposed to land banks), see <http://www.cltnetwork.org/>.



# Disposition Strategies

In the case of brokering programs matching third party purchasers to sellers and homebuyer assistance programs, there is only one legal transfer of title: from delinquent property or REO owner directly to the pre-selected new owner.<sup>18</sup> In most cases, however, if local governments or non-profits intervene in the foreclosure market, they will be acquiring properties which they will convey to an occupant or other third party at some later point.

Conceptually, government and non-profit disposition strategies can take many forms:

- Demolishing properties for eventual redevelopment of the site;
- Rehabilitating properties for market-rate sale or rental;
- Rehabilitating properties for affordable resale (often with measures to ensure long term affordability, such as deed restrictions or use of a land trust);
- Rehabilitating properties for affordable rental housing or lease-to-own.

Some of these different disposition strategies are discussed in greater detail as part of the case studies in Part IV.

## Drawing from recent disposition experience

While the scale of the current foreclosure crisis is unprecedented in recent history, many cities do have extensive experience with disposition strategies stemming from the waves of abandonment and disinvestment that afflicted urban America in the 1960s and 1970s.

### THE LIVING CITIES PILOT PROGRAMS

Living Cities, a 15-year old collaboration between some of the nation's leading philanthropies and corporations, hopes to jumpstart local efforts to redevelop foreclosed properties by supporting pilot programs in a diverse array of housing markets and regions across the country. In June, Living Cities announced that its first round of grants (totaling \$3,750,000) would be awarded to programs in Cleveland, Dallas, Detroit, Massachusetts, Minneapolis/St. Paul, New York City, Rhode Island and Washington, DC.

These programs, selected on the basis of their readiness, replicability, potential for impact, ability to leverage local resources and need, should provide a valuable laboratory for other communities seeking to design effective programs to combat the negative impacts of concentrated foreclosures.

For further information about Living Cities, the grant program and the pilot programs it is supporting, see [http://www.livingcities.org/2008\\_files/Living\\_Cities\\_Mitigating\\_Impact.pdf](http://www.livingcities.org/2008_files/Living_Cities_Mitigating_Impact.pdf).

<sup>18</sup> See, e.g., New York City's Third Party Transfer program under which the City transfers tax delinquent distressed properties from delinquent owners directly to tenants or pre-screened qualified third parties (for more information, see <http://home2.nyc.gov/html/hpd/html/developers/third-party-ownership.shtml>; and Neighborhood Housing Services of Minneapolis, which has transformed more than 200 vacant houses into rehabilitated owner-occupied houses through a purchase-rehab lending program (for more information, see [http://www.stlouisfed.org/RRSeries/event2/Event2\\_Terwisch.pdf](http://www.stlouisfed.org/RRSeries/event2/Event2_Terwisch.pdf)).



New York City, for example, had accumulated more than 5,000 buildings containing more than 50,000 residential units by 1994 as a result of decades of tax foreclosure actions. Ownership and management of such a large inventory of occupied and vacant structures caused the City government frequent embarrassment, including accusations that City Hall was the City's largest "slum lord." New York City's experience, at the very least, ought to serve as a cautionary tale about the risks and limitations of pooling a vast and scattered inventory of buildings under public or even land bank ownership. On the other hand, the City's stock of these so-called *in rem* properties became the pipeline for an extensive effort, recently completed, to return the properties to sustainable use as affordable and market rate housing through a variety of programs.<sup>19</sup>

Similarly, the City of Cleveland has operated a land bank since 1976 to address a glut of abandoned properties, many of which have been redeveloped as housing sites, side yards or community gardens. In Cleveland's case, only vacant land was eligible for land banking, allowing the city to avoid the complexity of managing residential buildings.

In addition, countless community development corporations (CDCs) and other affordable housing developers (for profit and non-profit) throughout the country have acquired extensive expertise developing or redeveloping buildings and land purchased on the open market or acquired at a discount from land banks or local governments.

There are, of course, aspects of the current crisis that distinguish it from previous vacancy-related challenges local governments and non-profits have addressed. Notably, in many communities, the stock of foreclosed properties primarily consists of single-family homes. Disposition models that depend on traditional property management economies of scale (e.g., managing a medium or large multifamily building), are unlikely to be viable for managing scattered single family or even two-family properties as affordable rental housing.

Other key differences include:

- Unlike many of the abandoned rental properties obtained by New York and other large cities in prior decades, properties that have been foreclosed upon by lenders and now sit in REO inventories are unlikely to be legally occupied.<sup>20</sup>
- In the current crisis, non-profits and governments will face special challenges in negotiating purchase prices when acquiring properties via short sale, auction or out of foreclosure. In this volatile market, non-profits and governments may not have the expertise in valuation to drive an appropriate bargain.

<sup>19</sup> For more information about New York City's experience with *in rem* properties, see Allred, Christopher H. 2000. Breaking the Cycle of Abandonment. New York City: New York City Department of Housing Preservation and Development. Available at [http://home2.nyc.gov/html/hpd/downloads/pdf/bgc\\_winner.pdf](http://home2.nyc.gov/html/hpd/downloads/pdf/bgc_winner.pdf).

<sup>20</sup> In most states, foreclosures allow new owners to terminate leases and evict tenants, which is standard practice for lenders acquiring property into REO. Even in jurisdictions with "just cause" laws protecting tenants from landlord foreclosures (e.g., Washington, D.C., New Jersey and New Hampshire), tenants unfamiliar with their rights are often threatened into moving out or are paid to leave with small lease buy-outs known as "cash for keys." See Been, Vicki, Allegra Glashausser. 2008. "Tenants: Innocent Victims of the Nation's Foreclosure Crisis." Albany Government Law Review (forthcoming).



- Despite significant home value drops, many cities experiencing high foreclosure rates (particularly in California) have severe shortages of affordable housing. Accordingly, many disposition programs crafted for the current crisis in these communities will have a strong emphasis on preserving long term affordability.





## Lessons from the Past: Federal Property Disposition Programs

The current foreclosure crisis is not the first the nation has faced, and the history of federal interventions in similar crises in the past provides valuable historical context to today's policy discussions. At the May 2 Roundtable, Ellen Seidman of the New America Foundation delivered a presentation she prepared with Andrew Jakabovics of the Center for American Progress concerning past federal experience in foreclosed property disposition. The presentation discussed the Home Owners Loan Corporation (HOLC), launched in the 1930s in the wake of the Great Depression, the Resolution Trust Corporation, which operated in the 1980s and 1990s following the Savings and Loan crisis, and HUD's Asset Control Area Program (discussed in other portions of this report), which began in the 1990s and continues today to channel troubled HUD-owned properties into affordable housing programs.

Due to its scale and focus on residential real property, the story of HOLC is arguably the most relevant of the three historical precedents to current intervention options. Highlights of this history are summarized below:

- Between 1933 and 1936, HOLC refinanced mortgages on approximately one million homes across the country by issuing new 15-year fully amortizing loans to homeowners (an innovation at the time) and retiring existing private mortgages with government guaranteed bonds.
- Although HOLC successfully preserved homeownership for hundreds of thousands of American families at minimal cost to taxpayers, approximately 20% of the loans it issued defaulted. As a result, HOLC acquired and disposed of almost 200,000 properties throughout its history.
- Due to the age of the housing stock acquired and neglect by defaulting homeowners, HOLC, working through its own large workforce and extensive network of local contractors, spent millions of dollars renovating properties to improve their marketability.
- Prior to sale, properties owned by HOLC were rented to month-to-month tenants through a network of contract brokers who were responsible for property management.
- To bolster the market for its properties, HOLC financed the sale of many of its properties to homebuyers.
- A key to all of HOLC's activities—from extending loans, renovating properties, and selling properties—was a sophisticated and rigorous due diligence and appraisal process that determined property values not just on the basis of resale values, but on potential rental income and replacement value as well. Also crucial was the network of local contractors and brokers that managed and marketed properties for resale.

For a complete copy of the presentation, see: Ellen Seidman and Andrew Jakabovics, *Learning From the Past: The Asset Disposition Experience of the Home Owners Loan Corporation, the Resolution Trust Corporation and the Asset Control Area Program*, available at [http://www.americanprogress.org/issues/2008/09/pdf/econ\\_memo.pdf](http://www.americanprogress.org/issues/2008/09/pdf/econ_memo.pdf) or <http://furmancenter.nyu.edu/events/documents/lunch.seidman.pdf>.



## Tailoring Interventions to Local Markets

The goals and design of successful acquisition and disposition programs will, of course, differ depending on local housing market conditions. In high-cost markets, for example, acquiring foreclosed properties may not only stabilize home prices and neighborhoods reeling from foreclosure-related displacement, but also provide an opportunity to create long-term affordable housing options. If high home prices have put sustainable homeownership out of reach for even moderate income families with decent credit histories, non-profits or local governments should be able to readily identify qualified potential buyers for whom the properties would offer a sustainable affordable homeownership. While high-cost markets may offer many opportunities for sustainable disposition, the high real estate values pose significant financing challenges to organizations on the acquisition side.

Low-cost markets, in contrast, are generally the result of an over-supply of modestly priced housing. New or rehabilitated housing may not draw much interest from potential buyers already presented with many alternatives on the market, particularly if the new or rehabilitated housing is located in a neighborhood suffering from concentrated foreclosures and blight. It may be necessary, therefore, to bank the foreclosed properties for long periods of time, to be released as demand increases or development opportunities with adjacent parcels surface. Neglected older homes with obsolete floor plans or located in undesirable industrial locations might be demolished or deconstructed (see inset).

### HOUSE DECONSTRUCTION

One niche industry with growth potential in depressed low-cost housing markets is the disassembly of blighted or obsolete buildings and thorough salvage of building materials. Deconstruction takes longer and is more labor-intensive than demolition, but the resale value of salvaged materials has the potential to make it an economically viable green alternative that creates new jobs.

Deconstruction was recently profiled at length in the New York Times Magazine (see <http://www.nytimes.com/2008/09/28/magazine/28house-t.html>).



## Non-Profit Capacity Limitations and Private Participation

Given the severity of the crisis in some communities, many observers have questioned whether local governments and non-profits have adequate capacity to address more than a tiny fraction of the growing inventory of foreclosed properties. A community development corporation accustomed to rehabbing and managing a dozen small apartment buildings in a year will have neither the personnel nor the financial resources to scale its program up multifold.

Some financial help is on the way, however: the July passage of the Dodd-Frank Bill, which includes almost \$4 billion in neighborhood stabilization funds, promises to provide a significant injection of funding into program expansion.<sup>21</sup> Additionally, as described in some of the case studies in Part IV, New Market Tax Credits and other existing funding programs can be sources of significant capital for foreclosure-related redevelopment programs. Finally, NeighborWorks, LISC, Enterprise and the Housing Partnership Network have teamed up to form a National Community Stabilization Trust to negotiate with lenders and servicers for large scale bulk acquisitions of REO properties.

Financial resources are only one aspect of the capacity issue, however. The success of acquisition efforts will depend as well on local capacity for property management and disposition. These capacity constraints can be partially addressed through the use of land banking, which has the potential to buy time by taking properties off the market until local governments and non-profits can build up their capacity. Non-profits also can augment their capacity by leveraging private resources. Capacity need not be defined only by the volume of properties a CDC acting independently can afford to purchase, rehab and re-sell. Examples of interventions that harness private resources include:

- *Brokering sales to screened private purchasers.* By creating mission-oriented brokers or working with private brokers to steer available properties in foreclosure or in REO inventories to pre-qualified homebuyers (perhaps with down payment assistance), local governments and non-profits can support homeownership in neighborhoods with minimal direct investments.<sup>22</sup>
- *Hiring private property management.* If financial resources are available but institutional capacity is limited, land banks or non-profits can outsource property management functions to private, for-profit operations.
- *Focusing on high visibility, catalytic projects.* CDCs have long prioritized projects that were in key locations or that remedied particularly conspicuous blight. Such projects can transform blocks by reinvigorating private market interest in neighboring properties.

<sup>21</sup> For information about how these funds are being allocated to states, counties and cities, see <http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/>.

<sup>22</sup> In Albany, New York, for example, non-profit realtor Community Realtors specializes in helping first-time homebuyers. For more information, see [www.yourownhome.org](http://www.yourownhome.org).



# Encouraging Responsible REO Ownership: Improved Code Enforcement, Vacancy Registration and Short Term Leases

In addition to (or instead of) actually entering the market as buyer or seller, local governments may try to limit the negative effects of foreclosed properties by requiring REO owner to take better care of foreclosed properties. The most direct measure is stricter enforcement of existing maintenance requirements. In response to increased vacancies resulting from foreclosure, many communities across the country have stepped up code enforcement to encourage servicers and other building owners to minimize the negative spillover effects of their properties by keeping lawns mowed and structures in good repair.

Similarly, in order to better track the condition of vacant homes, many cities now require that owners register vacant properties. A list of vacant property registration ordinances compiled by a working group of servicers and the Mortgage Bankers Association is available at [http://www.safeguardproperties.com/pub/vacant\\_registration.pdf](http://www.safeguardproperties.com/pub/vacant_registration.pdf).

Increased code enforcement and vacancy registration requirements can shape lender and servicer behaviors in several beneficial ways:

- Encouraging improved maintenance of vacant properties by servicers and others;
- Encouraging foreclosure avoidance (e.g., modifications, short sales) by making REO properties more expensive to maintain and own;
- Encouraging lower REO retention rates by making REO properties more expensive to maintain and own; and
- Raising revenues for local governments (from fines and fees).

Making REO ownership too expensive, however, carries potential risks. Any change in law or enforcement policy that makes foreclosure more expensive could, theoretically, reduce the supply of credit or increase interest rates in the enacting jurisdiction. For properties already in foreclosure, particularly those with very low market values, making REO ownership more expensive could encourage lenders simply to walk away from their collateral, completing foreclosure but not taking title. So called “walk-aways” leave properties vacant, tax delinquent and in legal limbo for an extended period of time. To date, no publicly available research has identified just how frequently foreclosing parties have abandoned their collateral, so the significance of this risk is difficult to ascertain.<sup>23</sup>

<sup>23</sup> For an anecdotal account of lenders walking away, see Umberger, Mary, Becky Yerak and Tara Malone. “As owners default, lenders move in; Bank ownership of foreclosed homes doubles, and it’s changing the face of U.S. neighborhoods.” March 31, 2008. Chicago Tribune.



Another strategy to mitigate the negative impacts of REO properties is to encourage their owners to rent them out to short term tenants while the property is being marketed for resale, minimizing periods of vacancy and attendant vulnerability to theft and vandalism. In markets where rental housing is scarce, the revenue stream resulting from a short term rental could be attractive to lenders or servicers to offset carrying costs and to protect their property if, due to market conditions, the lender or servicer anticipates a long period of REO ownership. Despite the possible benefits of having paying tenants, however, there are obstacles preventing such strategies from gaining much traction. Perhaps most significantly, particularly in states with strong tenant protections, it can be difficult to remove a tenant on short notice, limiting the property owner's flexibility and ability to sell the property. And, as risky as vacancy can be for a house, tenants can themselves cause damage to properties and complicate maintenance and renovation projects.



## Part III: Working with Lenders and Servicers

For lenders, foreclosure is an increasingly expensive mortgage outcome. A June, 2008 report from Fitch Ratings reported that “loss severity” (the percentage of the total amount owed to a lender at the time of foreclosure that the lender does not recoup) for securitized non-agency loans (which includes most subprime loans) increased from less than 45% in the first quarter of 2007 to more than 55% in the first quarter of 2008.<sup>24</sup> Among the components of these increasing losses are expenses incurred in REO maintenance and sale, including property taxes, insurance premiums, broker commissions, code enforcement penalties and maintenance costs. Clearly, lenders stand to benefit alongside local communities from policies and programs that reduce REO inventories, so long as such programs do not rely on sales so heavily discounted as to negate the benefit to the lender of a certain immediate sale.

The rapid growth of securitization of subprime loans has complicated efforts to work with lenders towards common goals, however. Diffuse ownership of residential mortgage backed securities (RMBS) leaves loan portfolio management in the hands of servicers who operate within a narrow range of discretion and with incentives that may or may not coincide with those of the investors that own the loans.<sup>25</sup>

### The Challenges of Non-Agency Securitization

A sizable majority of all subprime and “Alt-A” loans (loans with credit risks between prime and subprime) originated in recent years were securitized by non-agency sponsors (e.g., financial institutions other than Freddie Mac, Fannie Mae and Ginnie Mae). Accordingly, the parties initiating most foreclosures in distressed neighborhoods have not been lenders or individual investors acting on their own behalf, but have instead been trustees or servicers representing the investors in the mortgage pool containing the delinquent loan. Similarly, once foreclosed upon, these REO properties are not technically owned by lenders, but by the trust that held the foreclosed mortgage on behalf of the investors. These trusts generally employ a servicer specializing in REO management and disposition to manage their REO properties.

Trustees are the legal custodians of the loan pool but they typically delegate all operational duties (which are tightly constrained by IRS regulations and Financial Accounting Standards Board (FASB) accounting rules fundamental to securitization structures) to a

<sup>24</sup> See Fitch Ratings. 2008. Escalating Costs Impacting RMBS Losses.

<sup>25</sup> For more information about mortgage backed securities generally, the Securities Industry and Financial Markets Association web site contains easy to understand explanations at: [www.investinginbonds.com/learnmore.asp?catid=11&subcatid=56](http://www.investinginbonds.com/learnmore.asp?catid=11&subcatid=56).

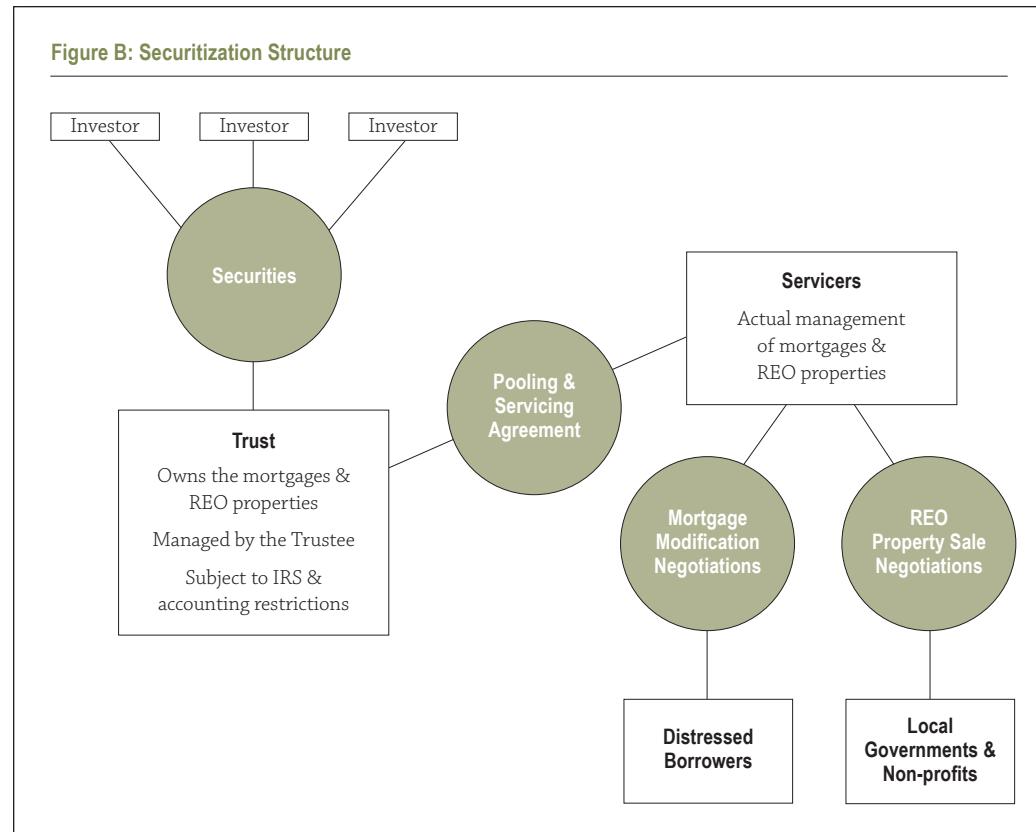


master servicer. This delegation is documented by a pooling and servicing agreement (PSA), which defines the limited discretion servicers have to manage the trust's assets (including REO properties). Further complicating matters, master servicers typically delegate specific duties to "special servicers" with expertise in particular asset management functions, such as maintaining and selling REO properties.

The structure of securitization (illustrated in Figure B) and its impact on how foreclosed properties are managed can present several significant challenges to a local government or non-profit seeking to negotiate a short sale before a foreclosure is completed or to purchase an REO property:

### Identifying the decision maker

The master servicer or the special servicer handling a specific loan file should be the relevant decision maker for any securitized mortgage, though its authority is subject to the terms of the PSA, accounting rules and IRS regulations. Non-profits and local governments often report difficulty identifying the servicer, however, because only the originating lender is named in the loan documents, and foreclosure actions and REO ownership are often in the name of the trustee or the Mortgage Electronic Registration System, known as "MERS", a private service contracted by trustees. Furthermore, misinformed or risk-averse servicers may disclaim their own authority, sending interested governments or non-profits to ill-equipped or unreachable trustees for negotiation.





## Limits on servicer discretion

Servicers are obligated by PSAs to maximize the value of the trust and perform their duties generally according to industry standards. This obligation generally precludes heavily discounted sales to non-profits or local governments that do not benefit the specific mortgage pool. Accordingly, even though concerns about the community or public relations benefits might motivate banks to make concessions managing their own loan or REO portfolios, servicers may feel more constrained by the bottom line of the loan pools they manage.

## Mismatched servicer-investor incentives

As in any agency arrangement, the incentives of the agent (the servicer) and the principal (the investors in the mortgage backed securities) do not perfectly align. Above all, servicers are motivated to maximize their own revenue and to avoid risk, so long as their actions do not conspicuously stray outside the boundaries of their engagement, the PSA. Although disputed by the securitization industry, several observers have argued that the fee and reimbursement structures of PSAs provide greater incentives for servicers to foreclose on distressed mortgages (the expenses of which are generally reimbursed) than they do for servicers to negotiate modifications or short sales (which require unreimbursed labor costs), even though short sales and modifications may cost the mortgage trust less than the foreclosures would.<sup>26</sup>

Furthermore, although differences in performance quality (including the time it takes to sell an REO property) can be observed between individual servicers, servicers of existing subprime loan pools may see little value in enhancing their reputation by improving performance. Given the collapse of the market for new private-label mortgage backed securities issuances, opportunities to compete for new business will be limited.

## Servicer capacity and culture

During the recent real estate boom, servicer duties were generally limited to processing homeowners' mortgage payments and distributing them to investors. The foreclosure crisis has significantly increased the demands on loss mitigation and REO management departments. Furthermore, as servicers adopt policies at high levels (most notably, increased willingness to modify loans and negotiate short sales), observers directly involved in individual foreclosure prevention negotiations have reported that the servicers' employees and their attorneys are slow to adjust. Finally, several practitioners have argued that servicers have a cultural unwillingness to adjust to falling markets or are simply unable to accurately value their properties. As a result, sale negotiations are protracted or unsuccessful, subjecting properties to longer periods of vacancy and greater vulnerability to decline.

<sup>26</sup> For a useful review of the possible misalignment of servicer incentives, see Cordell, Larry, Karen Dynan, Andreas Lehnert, Nellie Liang and Eileen Mauskopf. 2008. "The Incentives of Mortgage Servicers: Myths and Realities." Finance and Economics Discussion Series, Divisions of Research & Statistics and Monetary Affairs, Federal Reserve Board, Washington, D.C. <http://www.federalreserve.gov/Pubs/feds/2008/200846/200846abs.html>.



## Opportunities for Collaboration

Despite the challenges posed by securitization, local governments and non-profits must find ways to work with servicers to improve REO property management and disposition. The alternative is continued inundation of local real estate markets with deeply discounted vacant homes, which at worst invites thinly capitalized speculators looking for quick flips, and at best contributes downward pressure on home prices. Neither outcome benefits mortgage investors or local communities.

### Servicer-Community Coordination

One opportunity for collaboration between servicers and local communities arises from the potential value of coordinating the sales efforts of multiple parties. If multiple servicers own vacant, distressed properties in the same area, neither they nor individual purchasers have a financial incentive to invest significant capital in renovation efforts if the negative impacts of the other properties means the investment will not be recouped in a higher sales price. By coordinating the sales and rehab strategies of multiple servicers (and other property owners), local governments and non-profits can build consensus as to where investment efforts should be focused to maximize the benefit to the neighborhood housing market.

On a somewhat larger scale, Frank Alexander of Emory Law School envisions a coordinated REO inventory triage system to enable more consistent and rational deployment of redevelopment resources. Non-profits and servicers could systematically categorize new REO properties by condition, availability for occupancy and geographic concentration. Armed with this information, local governments could promote coordination between servicers to focus renovation efforts in some areas, while negotiating bulk purchases of REO properties in other areas for deposit into a land bank or non-profit redevelopment efforts.

### Developing New Industry Standards

In response to rising loss severities and the increasing number of properties in foreclosure, the American Securitization Forum (ASF) released a “Streamlined Foreclosure and Loss Avoidance Framework for Securitized Subprime Adjustable Rate Mortgage Loans” in December, 2007.<sup>27</sup> ASF’s “framework” systematically and clearly lays out industry standards consistent with PSAs about which types of loans should be modified to prevent foreclosure. By publishing these standards, ASF’s members aimed to jumpstart modification efforts by removing the initial uncertainty servicers had about their ability to modify loans.

If research or experimentation can demonstrate that servicers are, in fact, losing value through current practices (by, for example, systematically rejecting reasonable early offers by local governments and then selling the same properties at a later date for an even lower price)

<sup>27</sup> The framework was subsequently revised and re-released in July, 2008. For more information, see <http://www.americansecuritization.com/story.aspx?id=2629#>.



or that participation in geographically targeted redevelopment efforts can boost the value of retained REO properties or stabilize neighborhood housing prices, a new servicing industry “framework” could be developed that outlines acceptable REO management practices that spur increased servicer-local government cooperation. Some large servicers have begun pilot programs to identify new models for selling REO properties that benefit the mortgage trusts as well as the communities surrounding the foreclosed property. Citibank and FreddieMac, for example, each operate first time homebuyer programs that match aspiring homeowners with foreclosed properties at auction or REO properties. Successes from such programs could be the basis of such a new “framework.”

### **HUD REO Inventories**

Every year HUD obtains and sells thousands of residential properties it receives when loans issued under FHA, VA and other government-insured lending programs are foreclosed upon. As a government agency unconstrained by duties to private investors, HUD has significantly more latitude to work with local communities to address concentrations of vacant properties. HUD has developed a number of programs to funnel properties into productive reuse and, historically, has sold more than 60% of its REO properties to new owner-occupants or to non-profits (though, according to HUD, this share has declined to about 50% in recent years).

There are three significant collaborations between HUD and local governments and non-profits relevant to foreclosed property reuse efforts:

- the Dollar Home program, under which HUD sells some of its most troubled REO properties to local governments for only a nominal price (see [www.hud.gov/offices/hsg/sfh/reo/goodn/dhmabout.cfm](http://www.hud.gov/offices/hsg/sfh/reo/goodn/dhmabout.cfm));
- the 602 Non-Profit Disposition Program, under which non-profits or local governments purchase and redevelop for affordable resale all HUD-owned REO homes in a designated area, called an Asset Control Area (ACA) (for more information and an assessment of the program, see [www.huduser.org/Publications/pdf/602assessment.pdf](http://www.huduser.org/Publications/pdf/602assessment.pdf));
- the Good Neighbor Next Door program, under which HUD sells homes in designated areas to law enforcement officers, pre-kindergarten through 12th grade teachers and firefighters/emergency medical technicians at a 50% discount if they live in the home for three years (see [www.hud.gov/offices/hsg/sfh/reo/goodn/gnndabot.cfm](http://www.hud.gov/offices/hsg/sfh/reo/goodn/gnndabot.cfm)).

Although comparatively generous, even HUD’s capacity for discount sales is limited. Like private lenders, HUD’s FHA programs must sustain themselves without taxpayer subsidy. Historically, the performance of loans and local housing market conditions have ensured that the dual missions of HUD (helping to preserve communities through property disposition programs and maximizing value to the FHA fund) have not conflicted. Current market conditions, however, have brought these two missions into greater tension as local communities increasingly seek discounts from HUD to acquire properties for demolition or economically viable rehabilitation.



## Part IV: Case Studies: Experience from the Field

At the May 2 Roundtable, representatives of four initiatives to promote productive reuse of foreclosed properties discussed the design of their programs and their experiences administering them. The following case studies, drawn from four cities with different housing markets, illustrate what can actually work “on the ground” and what challenges local communities face.

### Neighborhood Housing Services of Chicago

Since 1975, Neighborhood Housing Services of Chicago (NHSC) has invested hundreds of millions of dollars into nine troubled Chicago neighborhoods through a variety of programs, including housing rehabilitation, mortgage lending, foreclosure prevention and homebuyer counseling.

Among its successful housing projects was the acquisition and rehabilitation of 100 HUD properties in two neighborhoods through an Asset Control Area (ACA) negotiated with HUD. Because several of the properties were tightly clustered, the program had concentrated effects that demonstrably improved entire city blocks. Keys to the project’s success were:

- Low acquisition price, the result of tough negotiations with HUD and re-appraisal to establish market price, and a significant discount through the ACA;
- A subsidy (in this case, from HUD) to fund the gaps between project cost and resale prices;
- Bulk purchases of properties, which allowed for comprehensive and reliable project planning;
- Market timing: the properties were generally affordable but the real estate market was appreciating.

In recent years, NHSC has shifted its focus to foreclosures resulting from the wave of subprime lending that swept through the South Side of Chicago. Replicating the success of the ACA with private REO properties has been challenging, however, largely because of the difficulty of negotiating feasible purchase prices with servicers. In many cases, private speculators/investors have been willing to pay more than NHSC can afford to spend given the financial constraints of its project model. Because of their obligation to maximize investor value, servicers have generally been unwilling to

For more information about Neighborhood Housing Services of Chicago’s acquisition, rehab and resale projects, contact:

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discount properties for the benefit of NHSC. Accordingly, of the 348 properties NHSC rehabbed and resold over the past five years, only a tiny portion were purchased out of private REO inventories. The continued softening of the real estate market, however, may make REO acquisition easier in the coming months.

One bright spot in NHSC's efforts with servicer-managed REO properties is the successful negotiation of a pilot REO disposition program with HSBC Bank USA. Under this program, HSBC has donated four properties to NHSC for rehab and affordable resale. Though a modest start, NHSC hopes that this is a step towards greater cooperation with local REO property owners.

All of NHSC's rehab and resale projects, including those that have addressed foreclosed homes, have required NHSC to:

- Select appropriate properties;
- Keep acquisition costs low, sometimes through re-appraisal of properties;
- Accurately estimate post-rehab market value;
- Choose the right rehabilitation quality standard (which has obvious cost implications);
- Identify subsidy sources: over the past five years, the average subsidy needed per rehabbed property sold has been over \$20,000;
- Balance affordability and feasibility and tailoring neighborhood specific strategies;
- Market and sell the property to recoup costs.

In recent months, several factors have made rehab/resale projects more difficult: tightening credit availability; increased carrying costs of properties in the pipeline; and the need for increased subsidies or deeper discounts to cover declining resale costs, even in previously stable neighborhoods. These challenges have raised the possibility of alternative disposition strategies, such as operating single family properties as rentals or offering lease-to-purchase options.

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*Over the past five years, the average subsidy needed per rehabbed property sold has been over \$20,000.*

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## Genesee County Land Bank

The Genesee County Land Bank serves as the primary receptacle for tax foreclosed properties that the County elects not to auction following forfeiture. The precursor to the Genesee County Land Bank was formed in 2002 in response to a major overhaul of Michigan's property tax foreclosure statute.<sup>28</sup> Under the revised statute, instead of selling tax liens to investors, county governments were granted the authority to foreclose on delinquent property taxes and, through an efficient judicial proceeding, take ownership of the delinquent property if not redeemed. A 2004 state law authorizing the creation of land banks led to the formation of the current entity and vested it with the broad redevelopment and financial powers it employs today.<sup>29</sup> The Land Bank currently owns approximately 12% of all land in the City of Flint.

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The Land Bank and its redevelopment activities are entirely self-supporting. The Land Bank pays all delinquent taxes to local taxing jurisdictions within the county and, in return, collects and keeps all fees, penalties and interest recouped from redeeming owners and the proceeds from all land sales by the Land Bank. Key to its economic viability is its county-wide scope: the revenue earned through the delinquent tax interest or resale of more valuable suburban properties offsets the cost of redevelopment and maintenance of less valuable property in depressed urban areas. By classifying all tax foreclosed properties as brownfields, the Land Bank is able to tap into additional financial resources available through other state statutes and programs.

Like Cleveland, Genesee County, Michigan (and particularly Flint) suffers from significant housing abandonment, disinvestment and a challenging real estate market. The reforms to the state tax foreclosure process and the formation of the Land Bank have allowed Genesee County to better address these conditions in several ways:

- The timeline of the tax foreclosure process was shortened significantly (from several years to 1-3 years), reducing the amount of time properties remain abandoned and vulnerable to decay.
- Title to tax foreclosed properties is now generally insurable because the foreclosure process employs an efficient judicial proceeding rather than an administrative process.
- Interest, fees and penalties on delinquent taxes are now collected and spent on redevelopment projects and maintaining land banked properties rather than privatized

<sup>28</sup> See Michigan 1999 PA 123.

<sup>29</sup> See Michigan 2003 PA 258.



by investors through the sale of tax liens.

- The Land Bank can maintain (or demolish) foreclosed properties to prevent them from becoming community disamenities, which is a much more forceful mechanism than code enforcement alone.
- The Land Bank can control the disposition of tax foreclosed properties into the market by selling its inventory through negotiated sales rather than at auctions, at a rate that the market can absorb. Of the approximately 1,500 parcels that the Land Bank sold through negotiated sales during an evaluation period, only 18 were subsequently re-foreclosed. By contrast, of the approximately 800 tax foreclosed parcels that were sold at auction during this period, 550 were subsequently re-foreclosed.
- The Land Bank can aggregate properties to create large parcels that can be comprehensively redeveloped.

The inventory of the Genesee County Land Bank is currently drawn completely from tax foreclosures, but the Land Bank could expand its scope to encompass mortgage foreclosed properties acquired by the Land Bank, local governments or non-profits. In many cases, low value properties in mortgage foreclosure are already finding their way into the Land Bank if the lender allows the homeowner's tax bill to remain delinquent. Although not typical in most markets, this is not completely unexpected in a very low-cost market like that of Flint:

if a foreclosed property's value is low enough, lenders might rationally determine that the collateral value does not justify the expense of paying delinquent taxes or the carrying costs of the property while held in REO for an extended period.

For more information about the Genesee County Land Bank, contact:  
**Daniel Kildee**  
Genesee County Treasurer  
(810) 257-3059  
dkildee@sbcglobal.net



## Columbus Housing Partnership Programs

Columbus Housing Partnership (CHP) is engaged in a variety of community development activities in Columbus, Ohio, including providing mortgage counseling, developing and operating affordable rental and for-sale housing and renovating distressed houses for resale. In 2007, CHP secured a \$9.5M pool of New Markets Tax Credit funds to finance several of its development initiatives, including the acquisition, rehabilitation and resale of foreclosed properties.

In order to secure a pipeline of affordable properties to acquire for rehabilitation, CHP (with the aid of Enterprise and the City of Columbus) negotiated the formation of a HUD Asset Control Area (ACA) encompassing some of the most distressed parts of the city. The ACA agreement designated more than 20 properties to CHP for its rehabilitation efforts. Even with a pledge of \$20,000 in assistance from the City of Columbus for each property, however, further analysis of the project revealed that the market for resale in the ACA was too weak to support the expense of acquisition and rehabilitation. Given the sinking real estate market and the condition of the properties, the analysis estimated that each would require an average additional subsidy of almost \$40,000. Additionally, some of the properties were either obsolete, or in such disrepair that demolition was preferable to rehabilitation, an intervention that the ACA program does not accommodate. For these reasons, HUD and CHP agreed to terminate the ACA at the end of 2007 and renegotiate to identify an area containing more viable rehabilitation targets.

CHP also has sought to acquire foreclosed homes out of private REO inventories for rehabilitation and resale and has worked with the City of Columbus to receive properties conveyed by HUD under the Dollar Home program. Negotiating REO property purchases is time consuming, however, and, given its rehabilitation standards, CHP cannot afford to pay as much as private investors.

*Even with a pledge of \$20,000...  
for each property...the market for  
resale in the ACA was too weak to  
support the expense of acquisition  
and rehabilitation.*



CHP's housing rehabilitation and development projects tie into its Homebuyer Education program, which graduates about 800 people per year. Before the recent market downturn, about 20% of these program graduates ended up buying homes. Through this program, CHP can identify and provide down payment assistance to qualified buyers to improve their chances of success as homeowners.

The most significant challenges facing CHP's foreclosed property redevelopment efforts are:

- The general decline in the area's real estate market;
- Acquiring enough properties in a targeted area to stabilize it by removing all blight;
- Securing enough funding to subsidize the rehabilitations given the limited resale value or rental income if CHP retains the property as affordable rental housing;
- The reduced availability of mortgage financing and rising down payment requirements limit the pool of potential buyers and inhibit the rebound of local housing markets;
- The limitations of HUD's ACA program, including its focus on the most distressed areas and its lack of demolition options;
- Inability to compete for REO properties against private investors who are unlikely to make the same significant improvements CHP considers necessary.

For more information about CHP's acquisition, rehab and resale projects, contact:

**Amy Klaben**

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## San Diego City-County Reinvestment Task Force Land Bank

The San Diego City-County Reinvestment Task Force was established in 1977 to monitor local banking practices and develop strategies for community reinvestment. One of its main successes has been building a reinvestment infrastructure, including CDCs and a mission-oriented equity investment vehicle, the San Diego Capital Collaborative.

In response to increased foreclosure activity in low and moderate-income communities and an accompanying decline in home prices in these areas, the Task Force is forming a land bank. The land bank will have two primary goals:

- To create much needed affordable housing; and
- To stabilize the real estate market in neighborhoods with high foreclosure concentrations by pulling REO and other foreclosed properties off the market and keeping them out of the hands of speculative investors.

The land bank will likely be a quasi-public non-profit entity with a community land trust. Using private investment and limited non-profit or public subsidies, the entity will acquire REO property for rehab (where needed) and resale. Partnering with other non-profits, the land bank will create a “buyer bank” of potential homebuyers who have completed mortgage counseling and are prepared to purchase properties as they become available through the program. Some, but not all of the land bank’s properties will be held by a land trust to ensure long term affordability.

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*The land bank would have two primary goals:  
To create much needed affordable housing; and  
To stabilize the real estate market in neighborhoods with high foreclosure concentrations.*

---



Through the lure of (a) CRA credits resulting from below market returns on equity investment and mortgage loans made to qualifying homebuyers purchasing properties from the land bank in the future, (b) possible tax benefits and (c) the increase in value a successful program would bring to other REO properties, the Task Force hopes to involve local lenders in the land bank and negotiate discounted property acquisition.

The Task Force's first steps towards creation of the land bank have been an assessment of the current market for foreclosed properties, financial modeling to estimate the potential returns to private investors and a formal business plan. The Task Force hopes to have the Land Bank launched and acquiring property by the end of 2008.

For more information about the San Diego City-County Reinvestment Task Force land bank project, contact:  
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## Part V: A Research Agenda

The data presented in Part II about the markets for foreclosed properties in Massachusetts and Cuyahoga County highlight the importance of locally focused research efforts to better understand local housing markets and assess what interventions, if any, might be appropriate in that market to secure the productive reuse of foreclosed properties. But diagnosing the problem and potential points of intervention are only one category of research that will be vital to efforts to stabilize communities. Other research must take a closer look at the behavior of the owners and managers of REO inventory, the capacity of local governments and non-profits, and the institutional and legal barriers that might complicate or thwart efforts to acquire or dispose of foreclosed properties. In addition, in order to inform the decisions policymakers must make about program design, existing and experimental new interventions must be objectively evaluated so that successes can be identified and replicated and inefficient strategies can be reformed. This research is vital not just for designing successful interventions, but also for evaluating arguments for federal and state level financial aid to fund these interventions and for determining how any such funds should be allocated among communities.

Roundtable participants identified the following important research questions within these various categories:

### **Market Diagnosis:**

- Where, and on what types of properties, are foreclosures occurring?
- How frequent are short sales, what types of homeowners in distress are selling through short sales, who is buying properties through short sales, and to what uses are those buyers putting the properties?
- After foreclosure, how long do properties stay in REO?
- Who buys properties at auction or out of REO and what becomes of those properties?
- When do properties in foreclosure tend to become vacant, and what characteristics of the property, borrower, lender and servicer determine whether a property will be left vacant?
- Are foreclosed properties being abandoned? If so, at what point and by whom?
- How do the various foreclosure outcomes impact neighboring properties?

### **Lender/Servicer Institutional Behavior:**

- How do compensation structures in PSAs influence servicer behavior?
- Are servicers maximizing investor value with current REO management and sale practices?
- What characteristics of servicers and PSAs are correlated with the propensity of the servicer to modify or work out the loan, sell the property quickly out of REO, or abandon the property?



## Capacity and Other Challenges for Governments or Non-Profits:

- What characteristics of governments or non-profits are correlated with the effectiveness of foreclosed property interventions?
- What infrastructure requirements (such as data to aid local governments or non-profits in valuing REO property) appear to be necessary prerequisites to successful interventions?
- What institutional or regulatory barriers inhibit interventions from working as well as they otherwise could?

## Program Evaluation

- How well have acquisition and disposition programs met stated goals?
- How cost effective have programs been in meeting these goals?
- Are there unintended consequences or differences between short and long term impacts?

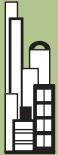
Research designed to answer these many questions will rely on the availability of data from a wide variety of public and private sources. The importance of such research should be the impetus for many local communities to improve accessibility of their key data sources, including deed transfer records, recorded mortgages and taxing authority records. In some jurisdictions, for example, foreclosure filings are available in court dockets, but are not readily available on-line and, as a practical matter, must be purchased from private data services. Coordination of different arms of local governments to present data publicly on a single on-line platform (preferably with GIS capability) can greatly reduce the costs of both formal academic research and informal, ad-hoc research conducted by non-profits identifying the areas in which they should target resources.

For many of these research questions, however, private providers are currently the sole source of data. Short sales, for instance, must be agreed to by servicers or lenders, but may not be observable from

## MORTGAGE AND FORECLOSURE DATA

In an effort to promote the development and use of community data systems to inform policy decisions, local research groups from across the country and the Urban Institute collaborate through the National Neighborhood Indicators Partnership (NNIP). NNIP's local partners (there are now about 30) are an excellent source for mortgage and foreclosure data and other property-level information that will be crucial for program development and evaluation. For more information about NNIP and its local partners, see <http://www2.urban.org/nnip/index.htm>.

The Brookings Institution's Urban Market Initiative is another great source for community groups trying to better understand how to use parcel-level data. For more information, see [http://www.brookings.edu/reports/2008/0708\\_data\\_development\\_kingsley\\_pettit.aspx](http://www.brookings.edu/reports/2008/0708_data_development_kingsley_pettit.aspx).



the public records, certainly not in any systematic fashion. Databases maintained by private sources such as CoreLogic's Loan Performance or McDash Analytics are among the most powerful tools for research in this area, but are expensive and access is generally difficult to negotiate and heavily restricted. The frustration of researchers dealing with these data sources should inform efforts to improve data collection throughout the mortgage and real estate industry and to mandate public disclosure of data through federal or state legislation, such as the Home Mortgage Disclosure Act.





## Part VI: Next Steps

Participants in the May 2 Roundtable also discussed several legislative efforts that were offered as crucial steps towards empowering communities to productively reuse foreclosed properties. These proposals generally consist of making financial resources available for acquisition and rehabilitation efforts or changing the legal processes to enable, or eliminate barriers to, successful program operation. Some of the specific proposals are described below.

### **Flexible federal funding that can be tailored to local needs**

As demonstrated by the experiences of existing acquisition and rehab programs (including those operated by Neighborhood Housing Services of Chicago and Columbus Housing Partnership), participants argued that the availability of funding is key to the viability of foreclosed property reuse programs. Thousands of properties need

to be demolished and rehabilitated, requiring the expenditure of funds that cannot be recouped through resale. The Dodd-Frank bill included almost \$4 billion of funding for acquisition and rehabilitation or demolition of foreclosed properties. Using the \$20,000 approximate average subsidy of NHSC's Asset Control Area property rehabilitation program described in Part IV as a baseline, \$4 billion represents only a tiny fraction of the total amount of subsidy that communities across the country will need for their community stabilization efforts.

### **Land bank authorization and tax foreclosure reform**

As demonstrated by the Genesee County Land Bank, reforming tax foreclosure policies and establishing robust land banks can create powerful tools for addressing distressed properties in a low-cost market. Such efforts can be at least partially self-supporting if the land bank is administered at a geographic level large enough to contain relatively high-cost properties as well as low-cost, distressed neighborhoods. Ohio is poised to pass significant land bank legislation this year which would permit the formation of county-wide land banks modeled after the Genesee County example.<sup>30</sup>

### **THE FEDERAL RESERVE “RECOVERY, RENEWAL, REBUILDING” SERIES**

As part of its Homeownership and Mortgage Initiative, the Federal Reserve System organized “Recovery, Renewal, Rebuilding,” a series of forums over the summer and fall of 2008 about foreclosure prevention and neighborhood stabilization. Like the May 2 Roundtable, these forums provided rare opportunities for researchers, government officials, mortgage industry representatives and non-profit practitioners to meet and review research findings and share ideas.

For more information, including agendas and links to many of the presentations and reports delivered at the forums, visit [www.stlouisfed.org/RRSeries/default.html](http://www.stlouisfed.org/RRSeries/default.html).

<sup>30</sup> The legislation was introduced on July 17, 2008 as House Bill 602 and Senate Bill 353.



### **Improved lender-side transparency**

Both foreclosure prevention efforts and REO purchase efforts have been hampered by the difficulty practitioners face in identifying the right party with which to negotiate. This lack of transparency is largely the result of securitization and its separation of duties between the holder of the mortgage (the trust established for the benefit of the investors in the securities) and the hired servicers. Participants suggested that state legislation could make negotiations more efficient by requiring that foreclosing entities identify the party with authority to negotiate short sales and modifications and that would have control over the property if acquired into REO.

Similarly, observers have reported that identifying the purchasers of REO properties can be a challenge if a foreclosure deed is never recorded, limiting the ability of local governments and non-profits to hold owners accountable or negotiate transactions.

### **Enhanced maintenance codes and vacancy registration requirements**

As described in Part II, requiring property owners to register their vacant properties with a centralized inventory system promotes improved monitoring and accountability. Similarly, maintenance code enforcement encourages better care of REO properties. Communities confronting growing numbers of foreclosures, REO properties and vacancies can adopt such requirements to help mitigate the negative impacts of these properties and identify where public resources should be concentrated.

### **Improved data collection and reporting**

The reliance on private data sources for basic research on foreclosure trends reveals the need for modernization of the public infrastructure for mortgage and housing data collection. The data presented by Paul Willen and Claudia Coulton has not been replicated in other communities, partly because of the expense or difficulty of purchasing data or collecting it directly from local public records. More resources need to be devoted to reliable public data collection so that the performance of the housing market can be more easily monitored and studied.

### **Systemic reforms**

In addition to the practical legislative proposals outlined above, participants also noted that the consensus that the country is facing a foreclosure crisis (which has since grown into a more widespread financial system crisis) and the attention being devoted to the crisis by legislators and researchers have created an opportunity to consider more systemic reforms to the country's lending infrastructure and the foreclosure process. Reforms to be considered might include:

- Improving the accountability of servicers and trustees through reforms to the tax laws governing securitization vehicles and other measures;
- Increasing borrower leverage for negotiating short sales or modifications with servicers through changes to bankruptcy law or foreclosure moratoria;



- Rethinking the holder in due course doctrine to force improved loan pool due diligence by residential mortgage backed securities issuers and investors;
- Rethinking the national emphasis on homeownership at the expense of rental housing, particularly given the potential availability of discounted property that could be added to stocks of long term affordable housing;
- Reforming the regulation of financial institutions and previously unregulated mortgage brokers and mortgage originators;
- Reforming the Community Reinvestment Act to improve incentives related to REO management.

Such fundamental reforms, participants argued, could not only help heal the damage suffered by communities as a result of the current foreclosure mess, but could also prevent future upheavals and reinvigorate atrophied federal and state urban development policies.



# Other Resources

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## Furman Center Web Sites

Main site:	<a href="http://www.furmancenter.org">www.furmancenter.org</a>
May 2 Roundtable site:	<a href="http://www.furmancenter.nyu.edu/events/ForeclosedPropertiesRoundtable.htm">www.furmancenter.nyu.edu/events/ ForeclosedPropertiesRoundtable.htm</a>

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## Ford Foundation Web Site

[www.fordfound.com](http://www.fordfound.com)

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## Information about HUD Programs

Dollar Home Program:	<a href="http://www.hud.gov/offices/hsg/sfh/reo/goodn/dhmabout.cfm">www.hud.gov/offices/hsg/sfh/reo/goodn/ dhmabout.cfm</a>
602 Non-Profit Disposition Program (ACAs):	<a href="http://www.huduser.org/Publications/pdf/602assessment.pdf">www.huduser.org/Publications/pdf/ 602assessment.pdf</a>
Good Neighbor Next Door Program:	<a href="http://www.hud.gov/offices/hsg/sfh/reo/goodn/gnndabot.cfm">www.hud.gov/offices/hsg/sfh/reo/ goodn/gnndabot.cfm</a>

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## Information about HUD Neighborhood Stabilization Program Grants

From HUD:	<a href="http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/">www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/</a>
Knowledgeplex Chat:	<a href="http://www.knowledgeplex.org/xchat-transcript.html?chid=341&amp;featured=1">www.knowledgeplex.org/xchat-transcript. html?chid=341&amp;featured=1</a>

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## National Organizations Working on Neighborhood Stabilization

National Vacant Properties Campaign:	<a href="http://www.vacantproperties.org/">www.vacantproperties.org/</a>
NeighborWorks Neighborhood Stabilization Portal:	<a href="http://www.stablecommunities.org">www.stablecommunities.org</a>
Enterprise Community Partners and the Save America's Neighborhoods Coalition:	<a href="http://www.saveamericasneighborhoods.org/">http://www.saveamericasneighborhoods.org/</a>
National Community Stabilization Trust:	<a href="http://www.stablecommunities.org/taxonomy/term/339">www.stablecommunities.org/taxonomy/ term/339</a>

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## Information about Land Banking

[www.lisc.org/content/publications/  
detail/793](http://www.lisc.org/content/publications/detail/793)

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## Data about Subprime and Alt-A Loans

(posted by the Federal Reserve Bank of New York):	<a href="http://www.newyorkfed.org/regional/subprime.html">http://www.newyorkfed.org/regional/ subprime.html</a>
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## Information about House Deconstruction

<http://www.buildingreuse.org/>  
<http://www.deconstructioninstitute.com/>

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## Agendas and Presentations from the Federal Reserve System's Forum Series

[www.stlouisfed.org/RRRSeries/default.html](http://www.stlouisfed.org/RRRSeries/default.html)



### Information about the Living Cities Ten-City Pilot

[http://www.livingcities.org/2008\\_files/  
Living\\_Cities\\_Mitigating\\_Impact.pdf](http://www.livingcities.org/2008_files/Living_Cities_Mitigating_Impact.pdf)

#### REO Property Listings

Freddie Mac:	<a href="http://www.homesteps.com">www.homesteps.com</a>
Fannie Mae:	<a href="http://reosearch.fanniemae.com/reosearch/">http://reosearch.fanniemae.com/reosearch/</a>
FDIC:	<a href="http://www4.fdic.gov/DRROR/">http://www4.fdic.gov/DRROR/</a>
HUD:	<a href="http://www.hud.gov/homes/homesforsale.cfm">www.hud.gov/homes/homesforsale.cfm</a> or <a href="http://www.homesales.gov">www.homesales.gov</a>
Bank of America:	<a href="http://bankofamerica.reo.com/search/">http://bankofamerica.reo.com/search/</a>
Citibank:	<a href="http://www.citimortgage.com/Mortgage/Oreo/SearchListing.do">http://www.citimortgage.com/Mortgage/ Oreo/SearchListing.do</a>
Countrywide:	<a href="http://www.countrywide.com/purchase/f_reo.asp">www.countrywide.com/purchase/f_reo.asp</a>
HSBC:	<a href="http://www.us.hsbc.com/1/2/3/personal/home-loans/properties">http://www.us.hsbc.com/1/2/3/personal/ home-loans/properties</a>
JPMorgan Chase:	<a href="http://mortgage.chase.com/pages/other/co_properties_landing.jsp">http://mortgage.chase.com/pages/other/ co_properties_landing.jsp</a>
M&T Bank:	<a href="http://services.mandtbank.com/personal/bank_owned_prop.cfm">http://services.mandtbank.com/personal/ bank_owned_prop.cfm</a>
National City Bank:	<a href="http://www.ncmcreo.com/">http://www.ncmcreo.com/</a>
Wells Fargo:	<a href="http://www.pasreo.com/pasreo">http://www.pasreo.com/pasreo</a>



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## About the Furman Center

Since its founding in 1995, the Furman Center for Real Estate and Urban Policy has become the leading academic research center in New York City devoted to the public policy aspects of land use, real estate development and housing.

The Furman Center is dedicated to the following three missions:

- Providing objective academic and empirical research on the legal and public policy issues involving land use, real estate, housing and urban affairs in the United States, with a particular focus on New York City. At present, our research focuses particularly on measuring the impacts public and private investments such as housing, schools, and changes in services, as well as regulatory interventions such as rezonings and inclusionary housing requirements, have on neighborhoods.
- Promoting frank and productive discussions among elected and appointed officials, leaders of the real estate industry, leaders of non-profit housing and community development organizations, scholars, faculty and students about critical issues in land use, real estate and urban policy;
- Presenting essential data and analysis about the state of New York City's housing and neighborhoods to all those involved in land use, real estate development, community economic development, housing, urban economics and urban policy. The Furman Center manages two websites that help disseminate information on New York City's housing and neighborhoods to the public: [www.plannyc.org](http://plannyc.org) and [www.nychanis.com](http://nychanis.com).
  - o PlanNYC is a comprehensive, independent information source about major land use and development projects in New York City. PlanNYC provides, for each project covered, a general description, news summaries and links to related articles, official documents such as environmental impact statements, a timeline of the project's progress, and a calendar of related events, including local community board meetings and public hearings. PlanNYC's content brings together information from advocacy organizations, government agencies, academic institutions, neighborhood groups, and the media to provide as comprehensive a story as possible.
  - o The New York City Neighborhood Information Service (NYCHANIS) is an interactive website that allows users to obtain data and information about New York City neighborhoods and create custom-made tables, charts, graphs, and maps. The Furman Center also publishes the annual State of New York City's Housing and Neighborhoods to report on housing, demographics and quality of life in the City, its five boroughs and 59 community districts.

The Furman Center is a joint center of the NYU School of Law and the Robert F. Wagner School of Public Service.

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