Mortgage Foreclosures in New York: An Evolving Crisis

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Chair Vann, I'd like to thank you for the opportunity to testify today. My name is Max Weselcouch and I am a Data Manager and Research Analyst at New York University's Furman Center for Real Estate and Urban Policy. With me is Jennifer Ilekis, the Fiscal and Grants Manager at The Furman Center. The Furman Center is a joint research center of the New York University School of Law and the University's Robert F. Wagner School of Public Service. Since its founding in 1995, the Furman Center has become a leading academic research center devoted to the public policy aspects of land use, real estate development, and housing. We provide objective academic and empirical research on affordable housing, housing finance and foreclosure, land use, and neighborhood change. We challenge assumptions and promote frank dialogue through our varied events and conferences, and regularly provide essential data and analysis on housing markets, demographic trends, and quality-of-life indicators to community-based organizations, policymakers, the real estate and finance industries, and the media. NYU's Furman Center has published over 15 rigorous empirical studies or policy analyses on the causes and consequences of the foreclosure crisis, focusing primarily on New York City.

I would like to make three key points today, based on our research in New York City. First, the foreclosure crisis is far from over. Second, foreclosures affect not only those homeowners who lose their homes, but also their tenants, their children, their neighbors, and local governments. Finally, our research indicates that foreclosure counseling does make a difference in outcomes for distressed borrowers.

The Crisis Continues

Since 2007, lenders have filed foreclosure notices on over 68,000 1- to 4-family homes in New York City.[1] These properties are concentrated in communities that had high levels of subprime lending in the mid-2000s, such as Southeast Queens and Central Brooklyn. These neighborhoods have foreclosure rates that rival severely economically depressed areas such as Detroit and "Sand Belt" cities like Salinas, CA or Jacksonville, FL.[2]

The number of new foreclosure filings in New York City slowed in 2011, compared to the two previous years: about 12,000 new foreclosures were initiated in 2011 compared to roughly 20,000 and 17,000 in 2009 and 2010, respectively.[3] While promising, this trend is not necessarily a sign that the crisis is easing.

This drop off coincides with the foreclosure moratoriums adopted by several large, national banks in the aftermath of the robo-signing scandals.[4] Although the moratoriums were lifted, Chief Judge Jonathan Lippman's October 2010 order that attorneys signing affidavits in foreclosure filings attest to the accuracy of the documents they submit[5] has continued to slow the pace of foreclosures.

Further, mortgage default rates, a precursor to later foreclosures, remain high. Statewide, nearly 10 percent of mortgages were 90 days past due at the end of the third quarter of 2011,

[1] NYU Furman Center analysis of data from Public Data Corporation.
[2] The annual foreclosure rates for 2010 were: 4.1 percent for Jamaica, Queens; 4.2 percent for Detroit, Jacksonville, and Salinas. Sources: NYU Furman Center analysis of data from Public Data Corporation and RealtyTrac.
[3] NYU Furman Center analysis of data from Public Data Corporation and NYC Department of Finance.
[4] Streitfeld, David. "Bank of America to Freeze Foreclosure Cases." *New York Times.* October 1, 2010.
[5] Administrative Order of the Chief Administrative Judge of the Courts, A0/431/11, March 2, 2011.

according to data made available by the Federal Reserve Bank of New York.[6] While this is lower than the nearly 12 percent of mortgages that were in default in early 2010, it is still very high relative to the average rate of less than two percent from 1999 through 2005.

Meanwhile, housing prices continue to decline or remain low in most parts of the city.[7] As a result, fewer homeowners are able to sell their properties to escape the foreclosure process. Ten percent of the properties that received a foreclosure notice in New York City in 2007 were sold to a third party within one year; but only five percent of the properties that received a foreclosure notice in 2010 did so. At the same time, the number of properties going to auction has increased. Of all of the properties that received a *lis pendens* filing in 2005, 10 percent eventually went to auction, but 20 percent of the properties that received a foreclosure notice in 2007 have gone to auction.[8]

Finally, changes to the laws governing the foreclosure process, combined with the sheer volume of foreclosure filings, have dramatically slowed the process of resolving these foreclosures. In 2007, the typical property that went to auction (the last stage in the foreclosure process) had received a foreclosure notice one year earlier; by 2010, that time period had doubled.[9] Properties going to auction now most likely received their foreclosure notices in 2009. Although some homeowners will be able to escape foreclosure early through modifications and short sales, many of the 12,000 foreclosure actions filed this year in New York City are likely to drag on at least until 2013.

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[6] Quarterly Report on Household Debt and Credit, August 2011. Federal Reserve Bank of New York. Accessed Nov. 2011 at: http://www.newyorkfed.org/research/national_economy/householdcredit/DistrictReport_Q32011.pdf

[7] NYU Furman Center analysis of New York City Department of Finance Automated City Register Information System data.

[8] Data current as of July 31, 2011. Source: NYU Furman Center analysis of data from New York City Department of Finance Automated City Register Information System and Public Data Corporation.

[9] NYU Furman Center analysis of data from Public Data Corporation and NYC Department of Finance.

In sum, even if the economy and housing prices were to recover sharply in the near future, the need for foreclosure mitigation services would be with us for at least a few more years, as the backlog of existing foreclosures and the number of people in default who may enter foreclosure soon, work through the system. And of course, if the economy and housing prices do not fully recover in the near future the need for foreclosure mitigation will be even greater.

Foreclosure impacts

Over the last several years, researchers at NYU's Furman Center have been studying the costs foreclosures impose on others, beyond the individual borrowers. Children for example, likely suffer as a result of foreclosure: more than 20,000 students lived in a building that entered foreclosure in the 2006-07 school year, and those students were considerably more likely to change schools than their peers by the following school year.[10] Further, the schools that they ended up attending were of poorer quality, on average, than the schools they attended previously. We are now studying how foreclosures, and the moves they precipitate, affect children's performance on standardized tests.

Tenants also suffer when their landlords are foreclosed upon, which may happen even though the tenant has paid the rent and has not contributed in any way to the landlord's default. More than half of all properties in New York City that enter foreclosure have more than one unit, and we estimate that since 2007, buildings entering foreclosure in New York City were home to over 100,000 renter households.[11] Since 2009, renters have been partially protected from immediate eviction by the federal Protecting Tenants in Foreclosure Act and a similar state law. But some

[10] Been, V., Ellen, I. E., Schwartz, A.E., Steifel, L., Weinstein, M. (2011). "Does Losing Your Home Mean Losing Your School? Effects of Foreclosures on the School Mobility of Children." *Regional Science and Urban Economics:* 41 (4).
[11] NYU Furman Center analysis of data from Public Data Corporation and NYC Department of Finance.

renters nevertheless are forced to move, even if current with their rent, because a financially distressed landlord misses utility payments or skimps on maintenance. Despite legal protections, parties buying the property out of foreclosure also sometimes bully tenants into leaving.

Foreclosures also affect neighboring property owners. Our research found that homes located in close proximity to foreclosed properties experience price declines, even after controlling for previous price trends in the neighborhood. A single foreclosure can reduce prices of homes within 250 feet by 1-2 percent. Concentrated foreclosures can affect surrounding property values in a larger area; three foreclosure filings within 500 feet of a home will depress its sale value by about three percent.[12] This can create a vicious cycle: concentrated foreclosures can drive down prices in a community, which in turn leads to additional foreclosures. In our study of subprime loans in New York City, we found that a foreclosure rate above three percent was associated with a 30 percent increase in the likelihood a borrower in that neighborhood will default, even after controlling for borrower risk, loan characteristics, and other characteristics of the neighborhood.[13]

At any point in the foreclosure process, the property may become vacant: owner occupiers may move out because they know they will eventually be evicted, and, as mentioned before, renters may move out because services or maintenance may decline. These vacant homes make a community less attractive, and can invite vermin or garbage, or – worse yet – crime. The Furman Center is now conducting a detailed study of the locations of every crime in New York City from

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[12] Schuetz, J., Been, V., and Ellen, I.G. (2008). "Neighborhood Effects of Concentrated Mortgage Foreclosures." *Journal of Housing Economics*: 17(4). Available at: http://www.sciencedirect.com/science/article/pii/S1051137708000338

[13] Chan, S., Gedal, M., Been, V., & Haughwout, A. (2011). The Role of Neighborhood Characteristics in Mortgage Defaults Risk: Evidence from New York City. *NYU Furman Center Working Paper.* Available at: http://furmancenter.org/files/publications/Pathways_1_Newest_with_Figures_Working_Paper.pdf

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2004 to 2008, and matching those crimes to the location of every foreclosure. While our results are still preliminary, we find a significant association between increases in foreclosure activity on a city block and increases in crime on the same block.

Foreclosure Counseling and Mortgage Modifications

Since the start of the foreclosure crisis, New York City and State have been leaders in adopting reforms aimed at keeping homeowners in their homes when possible, ensuring tenants and homeowners are treated fairly in foreclosure proceedings, and mitigating the effects of unavoidable foreclosures. While we have not studied the effects of each initiative, our work sheds light on the efficacy of the city and state's investments in foreclosure counseling.

We studied nearly 29,000 mortgages issued in New York City from 2004 to 2008 that became delinquent between 2008 and 2010.[14] The mortgage data, accessed through a partnership with researchers at the Office of the Comptroller of the Currency, includes detailed information on the loan terms, the properties, and the borrowers. Additionally, we were able to match these loans to data about which borrowers received counseling through the Center for New York City Neighborhoods (CNYCN).

Controlling for all known characteristics of the borrower (such as income, FICO score, and property type), the mortgage (terms and rates, debt-to-income ratio, loan-to-value ratio) and the neighborhood surrounding the property (demographics and market characteristics), we found that

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[14]Been, V., Weselcouch, M., Voicu, I., & Murff, S. (2011). Determinants of the Incidence of Loan Modifications. *NYU Furman Center Working Paper*. Available at: http://furmancenter.org/files/publications/Determinants_of_Mods_October_2011_Final_1.pdf.
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the nearly 700 delinquent borrowers who received CNYCN counseling were 30 percent more likely than those who did not receive counseling to obtain a modification. Again, our results are still under peer review, and are therefore preliminary.

Our study cannot determine whether CNYCN-funded counseling actually *caused* borrowers to be more likely to receive a modification. It may be, instead, that those who seek counseling have unobserved characteristics – like tenacity or ability to manage bureaucracy - that make it more likely that they will obtain modifications. But it does indicate that people with the same observable characteristics, such as credit score, income, and loan types, who decided to go to counseling were considerably more likely to end up in a modification. Further, those borrowers who received a modification after counseling were no more likely than other borrowers to re-default, after controlling for the modification terms, the borrowers' risk, and neighborhood factors.

In summary, our analyses of the housing and mortgage markets show that the foreclosure crisis likely will be with us for some time. We know that foreclosures impose substantial harms, not only on homeowners, but also on tenants, children, neighbors, and taxpayers. And finally, our findings make clear that the intervention of foreclosure counseling is associated with a greater likelihood that borrowers will receive modifications. Thank you and I would be happy to take any questions.

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