



February 17, 2023

New York State Legislature
2023 Joint Budget Hearing
Housing

My name is Jacob Inwald. I am the director of foreclosure prevention at Legal Services NYC. I submit this testimony on behalf of Legal Services NYC in support of funding for New York’s Home Ownership Protection Program (“HOPP”), which is the sole source of funding for the statewide network of housing counseling agencies and legal services agencies providing foreclosure prevention services for New York’s struggling low and moderate income (“LMI”) homeowners. ***The Governor’s proposed budget eliminates all funding for HOPP, even while professing to prioritize increasing homeownership—a goal that is hard to reconcile with cutting funding for the only statewide program that works to preserve existing homeownership.***

Last year, the Governor’s proposed budget included \$20 million in baseline funding for HOPP, and the Legislature, recognizing the increased need for homeownership retention services provided by HOPP in the aftermath of the pandemic, allocated a total of \$35 million in order to address the acute need for this network’s services. Last year’s request from the HOPP network sought a commitment for \$40 million annually for the subsequent years. Unless the legislature ensures that the Governor’s proposed elimination of the HOPP network does not go through, when the existing contracts conclude on July 15, 2023, ***there will be no funding for New York’s HOPP network at all***, leaving struggling homeowners nowhere to turn except deed theft and distressed property consultant scammers, and wreaking havoc in the courts.

We are thankful for the Legislature’s consistent support for HOPP and we recognize that without the restoration of funding for this program every year when funding for it was excluded from the executive budget proposals, New York would have long ago lost its investment in the country’s most robust foreclosure prevention network. While last year’s inclusion of the bare minimum of the \$20 million needed to prevent the loss of the existing network in the executive budget was a welcome change and much appreciated, this year’s executive budget’s exclusion of any funding for the HOPP network—New York’s only program focused on preserving existing homeownership, largely in communities of color—threatens the termination of this vital program just when it is most needed.

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Legal Services NYC (“LSNYC”) is the nation’s largest provider of free civil legal services to the poor. For more than 50 years, LSNYC has provided expert legal assistance and advocacy to low-income residents of New York City. Each year, LSNYC’s neighborhood offices across New York City serve tens of thousands of New Yorkers, including homeowners, tenants, the disabled, immigrants, the elderly, and children.

LSNYC is also the oldest and largest provider of foreclosure prevention legal services in New York City. LSNYC’s foreclosure prevention projects represent distressed homeowners and victims of predatory and discriminatory lending and abusive mortgage servicing in neighborhoods decimated by foreclosures across Brooklyn, Queens, Staten Island, and the Bronx, and it has provided such assistance to nearly 22,000 families since 2007.

The HOPP network comprises nearly 90 non-profit housing counseling and legal services agencies that help New York homeowners, coop owners and condo owners avert homelessness and displacement by preventing avoidable mortgage, tax and utility lien foreclosures, combating mortgage fraud, deed theft, loan modification and partition scams, and challenging predatory and discriminatory lending and abusive mortgage servicing practices that disproportionately impact New York’s most vulnerable communities—seniors and people of color. The network serves every county in New York State and all five boroughs of New York City, but current grants funding this vital network end on July 15, 2023. A total of \$40 million is needed to ensure that the existing HOPP network is able to meet the existing need for the network’s services in light of the unprecedented homeowner distress across New York State, which dwarfs the rates of default seen during the last foreclosure crisis.

Even before the onset of the pandemic, New York continued to battle a foreclosure crisis brought on by the last recession, but in the wake of COVID-19 the need has become even more acute as New Yorker homeowners across the state have suffered from lost employment and rental income from tenants. New York is continuing to see incredibly high delinquency rates, especially in communities of color. According to U.S. Census Household Pulse Survey data, an average of 7.4% of New York homeowners with mortgages continued to be delinquent in 2022 for the period 12/29/21-10/17/22). This percentage represents approximately 288,261 New York families at risk of losing their homes. This rate is over three times the rate of 2.2% in January 2020, right before the COVID pandemic started, and well over the high of 3.8% in January 2009, during the height of the financial crisis and Great Recession.

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Even more alarming, in October 2022, an average 16.8% of Latino, Hispanic, Black and Asian homeowners reported being delinquent on their mortgages compared to 5.6% of white homeowners in NYS. The disparate impact of foreclosures cannot be swept under the rug; the need for adequate funding for the HOPP network is a matter of racial justice. Historically, 43% of clients served by HOPP statewide are homeowners of color; in NYC, the number is closer to 80%. A new wave of foreclosures on “zombie second liens,” long-abandoned second mortgage loans sold to debt buyers who are now pursuing foreclosures on predatory second mortgage loans in light of increasing property values, is targeting NY communities of color that were targeted for predatory, toxic loans in the lead-up to the last foreclosure crisis. Just as the foreclosure crisis following the Great Recession disproportionately impacted New York’s communities of color, the COVID-19 pandemic has similarly inflicted greater harms on those communities, with the health impacts and the economic pain felt more acutely amongst black and brown New Yorkers.

A complicated patchwork of federal and state programs has evolved in the aftermath of the pandemic that homeowners cannot navigate on their own. FHA, Fannie Mae, Freddie Mac, and conventional lenders launched different forbearance plans and loss mitigation options for distressed borrowers, and New York State enacted its own law on forbearance programs for New York-regulated lenders and mortgage servicers. Accessing relief requires understanding the details of these various interventions and knowing who owns the loan in question and what program a homeowner may be eligible for. Homeowners need help to ensure they can access relief and they need advocates to make sure lenders are complying with applicable federal or NY laws and regulations. New York’s Homeowner Assistance Fund, which has made federal funding available to assist distressed New York homeowners in a program administered by NY Homes and Community Renewal (“HCR”), has reached a small portion of New York’s distressed homeowners, and it is leveraging the existing HOPP network to assist homeowners in accessing the program. Indeed, in recent months the HAF program engaged the HOPP network to accept referrals to review applicants who submitted applications without a HOPP advocate, recognizing that homeowners benefit from the HOPP network’s expertise, while at the same time the Governor’s proposed budget would eliminate the network altogether.

For more than a decade, this network has been helping families in every county across New York State, and in each of the five boroughs of New York City, navigate complex housing challenges -- including mortgage fraud, scams, displacement, discriminatory lending and

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mortgage servicing -- and it has helped thousands of families to keep their homes and to stay in their communities. It has helped not just the individual families affected by foreclosures but the communities at large, by preventing displacement and by preventing the increased crime and reduced property values that accompany waves of foreclosure, which, in turn, adversely affect the local community tax base.

Without the restoration of the funding proposed to be eliminated by the Governor's proposed budget (and indeed without the nominal increase to the \$40 million needed to meet the drastic increase in the need for these services) many of those not-for-profit housing counseling agencies and legal services providers will be ending their homeownership retention services when current contracts expire on July 15, 2023 and will be forced to turn away homeowners needing their assistance, leaving New York's struggling homeowners more vulnerable to the scammers peddling foreclosure rescue deed theft schemes and distressed property consultants, whose ranks have been multiplying as real estate values are increasing in many regions of the state. Ensuring that the HOPP network is adequately funded to restore losses in funding over the last decade and to meet the need resulting from unprecedented default rates is also essential to balance the mismatched levels of legal representation between large financial institutions represented by some of the largest law firms in the world, and New York's cash-strapped consumers who, until the advent of the HOPP network, largely went unrepresented, with most foreclosure actions resulting in default judgments.

As of 2019 the network had already helped 100,000 NY homeowners since 2012. Those receiving this assistance are working, low and moderate-income families, New Yorkers of color who were targeted for predatory loans, and seniors battling a wave of foreclosures on reverse mortgages and tax and water liens. The network mitigates displacement from foreclosures, scams and mortgage distress and its advocates challenge abusive mortgage servicing by financial institutions and discriminatory lending practices such as reverse redlining, in which vulnerable communities are targeted for the most toxic of loan products. Most importantly, it levels the playing field, giving distressed homeowners, condo owners and coop owners an advocate in court and in negotiations with large financial institutions.

The need for these direct service providers is actually embedded in New York's consumer protections enacted after the foreclosure crisis, which were recently made permanent features of the judicial foreclosure process:

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Lenders are required by law to send pre-foreclosure notices specifically identifying counseling agencies serving the homeowners' county—the very agencies that depend on the HOPP program for their funding that the Governor's proposed budget would eliminate.

HOPP network providers are integral to NY's pioneering foreclosure settlement conference process, where they partner with the courts to staff clinics and conferences and have been instrumental in drastically increasing the numbers of homeowners with representation at settlement conferences and in increasing the numbers of homeowners answering foreclosure complaints and preventing default judgments. Indeed, thanks to this network many homeowners facing foreclosure now have representation during the court settlement conference process, whereas prior to the network's inception most homeowners had no counsel and most foreclosure cases resulted in default judgments in which homeowners did not have access to counsel for the judicial foreclosure process. Amendments to that law provide homeowners attending their first conference a chance to avert default judgment and seek help from HOPP-funded legal services providers to file an answer to the foreclosure complaint, but that statutory mandate will be meaningless if the HOPP funded agencies staffing conferences to provide this assistance are de-funded as envisioned by the Governor's proposed budget.

These services are a crucial tool in preserving sustainable, affordable homeownership. Especially in New York City, the loss of a home to a foreclosure that could have been averted also represents the loss of naturally-occurring affordable rental housing, as many of the homes impacted incorporate affordable rental units that are lost to the rental market when the home is lost to foreclosure and sold off to investors and developers.

No homeowner should have to experience the fear of displacement. New York families continue to need access to free resources and experts to help them understand their options during a pandemic that has brought economic dislocation on an unprecedented scale.

Families save their money for years to achieve the American dream of owning a home but sometimes they fall on hard times or are victims of predatory scams, and they need the trusted, legitimate help that the HOPP network provides, without which their only options will be scammers preying on distressed homeowners. Indeed, there has been considerable focus on the phenomenon of deed theft, where mostly Black and brown homeowners seeking to avert

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foreclosure are preyed upon by bad actors promising them a resolution of their mortgage or property tax distress only to rob them of title to their properties and strip them from their homes. The HOPP network is New York’s single-most important tool in combatting this type of deed theft fraud, yet the Governor’s proposed budget proposes to eliminate this network.

For more than a decade the HOPP network has strengthened communities by helping families stay in the neighborhoods that they have lived in for generations.

Foreclosure remained a significant problem even before the pandemic brought on a new wave of economic dislocation, as New York’s economic recovery from the last foreclosure crisis was very uneven. In 2019, the last year for which complete data is currently available, there were approximately 22,000 new foreclosure cases filed in New York. More than 164,000 pre-foreclosure notices were filed against delinquent homeowners in the prior year. A testament to HOPP’s success is the fact that many of those filings did not lead to a foreclosure filing—the statutory pre-foreclosure notice referring homeowners to HOPP agencies allowed for many cases to be resolved before they ripened into foreclosure litigation. But if this network is eliminated—or not adequately funded at \$40 million to cope with the increased demand for its services-- we can anticipate a higher percentage of cases to result in new foreclosure case court filings, at which legal services providers will no longer be funded to work with distressed homeowners. If the HOPP network of legal services providers, who partner with the courts to assist homeowners navigating the complex judicial settlement conference and foreclosure litigation process, is eliminated (or inadequately funded to meet the current demand for services) we will see unprecedented delays and backlogs across the courts of the state.

Scams and fraud resulting in displacement are on the rise, especially in gentrifying neighborhoods across New York City, and in suburbs across the state which have seen property values rising since the start of the pandemic. The single most effective ammunition NY has against these scammers is the HOPP network, as every victim of a deed theft foreclosure rescue scam or a distressed property consultant is a desperate homeowner seeking to save their home from foreclosure.

Foreclosures typically spike when natural disaster, economic disruptions, or government shutdowns occur; this network stepped in after Hurricane Sandy, which had a horrific impact on New York City homeowners, and it has stepped in following COVID-19, working with the courts to help litigants summoned to “COVID” conferences and to assist homeowners with the

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filing of COVID hardship declarations mandated by New York’s moratorium legislation. New York neighborhoods will be devastated without the safety net of a robust network housing and legal counselors to help families navigate the arcane judicial foreclosure and loss mitigation processes.

If the existing network in which the State has invested is defunded (or left inadequately funded to meet the vast increase in demand for their services), homeowners will be left to fend for themselves, or worse, be at the mercy of scammers just waiting to take advantage of vulnerable homeowners, coop owners and condo owners desperately seeking to save their homes, as they defend themselves in court or attempt to resolve their mortgage or property tax distress. These are complicated, bureaucratic processes that can be nearly impossible to navigate without a nonprofit housing counselor or lawyer.

With \$40 million in funding the HOPP network will be able to continue its great work and combat urgent housing issues across the state, including:

The flow of zombie properties that destabilize neighborhoods;

Mitigating distressed mortgage and tax foreclosures, especially those affected those suffering from the impacts of COVID-19, preventing displacement;

Stopping scammers from stealing people’s homes and charging for loan modification services that are never provided, and stemming the tide of partition scammers preying on heirs and stripping equity from minority neighborhoods; and

Providing representation to the state’s seniors, who have been facing a wave of reverse mortgage foreclosures in recent years, who have only recently received the consumer protections New York has provided to other residential mortgage foreclosure defendants;

Addressing the latest wave of “zombie second mortgage” foreclosures, in which debt buyers have purchased long-abandoned second mortgages marketed to black and brown homeowners as predatory “80/20” loans and are now seeking to foreclose in order to pocket the equity in those properties.

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