Independent Democratic Conference

Nightmare Neighbors:

How Badly Maintained Homes Damage Neighborhoods

December 2017

Introduction

It has been a decade since the foreclosure crisis of the mid-2000's begun, causing substantial damage to communities across the State of New York. In 2009 New York took several steps to help protect individuals from the damage caused by the flood of foreclosures as homes were left to deteriorate. At that time, the legislature took initial steps to tackle the foreclosure crisis by imposing on banks a duty to maintain homes acquired through judgements.

However, in order to circumvent that duty to maintain, New York began seeing instances of financial institutions foreclosing on homes but failing to accept ownership of the property when the foreclosure was complete thereby escaping the duty to maintain that New York attached to them in 2009. To combat these new occurrences known as zombie properties, New York became more aggressive and in 2016, the State not only imposed a duty to maintain on banks and other financial institutions over homes they are foreclosing upon but the law also gave municipalities and the state Department of Financial Services greater powers to enforce this duty to maintain, as well as creating a registry for these properties, accessible by state entities and municipalities.

This past summer the Staten Island Advance ran a series on vacant, neglected and abandoned properties plaguing that borough[1]. While the series used the term zombie property to describe all vacant and abandoned homes, many of the homes they described in the series were homes not being foreclosed upon, but instead properties where ownership was not in doubt. Knowing that the 2009 law was in place, Senator Jeffrey D. Klein and the members of the Independent Democratic Conference (IDC) decided to launch a joint investigation of these bank owned properties again and the problems they are still causing by being in disrepair and accumulating multiple violations from municipal agencies. Senator Klein and the members of the IDC have labeled these properties "nightmare neighbors." Unfortunately, an examination of a set of bank-owned properties discovered by the IDC showed that a large percentage of these properties have open violations issued by various NYC departments. In addition, staff visits to properties in The Bronx, Brooklyn, Queens, and Staten Island revealed many properties in disrepair.

Therefore, the IDC believes that the state should take steps to bring bank-owned properties into the same process recently created for so-called zombie properties. In doing so, we will give the state and municipalities greater tools to hold companies that allow their properties to become nightmare neighbors accountable for what they have done to neighborhoods across the state.

[1] http://www.silive.com/news/2017/08/zombie_quality_of_life.html
http://www.silive.com/news/2017/07/staten_island_zombie_homes_is.html

Key Findings

- **IDC investigators were able to identify 336 bank-owned properties in The Bronx, Brooklyn, Queens, and Staten Island. 42.6% of these properties, or 143 of them, were found to have open violations with HPD and DOB.**
- **In total, these properties have 2,610 open violations.**
- **The Bronx has 33% of the properties with open violations, and accounts for 41% of the open violations. Brooklyn, with only 23% of the bank-owned properties found, accounted for 35% of the violations.**
- **In total, the IDC estimates that these properties are responsible for lowering the property values of neighboring homes by $53.44 million citywide, with Brooklyn seeing the greatest loss in value, at $22 million.**
- **In total, 8,392 homes are impacted, with the average property value loss being $6,368.**
- **Researchers found 26 financial institutions are responsible for these 143 properties. The five banks with the most open violations accounted for 52.3% of all open violations.**
- **The total depreciation caused by the top five worst violators citywide was $31,161,359, or 58% of the total depreciation of $53.44 million.**
- **The IDC found that minority communities were disparately impacted. While 69% of the communities with these properties were minority ones, in total 83% of the properties were located in the minority communities.**
- **Citywide, 89% of the open violations were in minority communities. In terms of the depreciation of property values, minority communities suffered the most again, with 84% of the total depreciation cased impacting minority communities. In every borough, at least 60% of the loss of property values was felt by a minority**

Part I: Defining 'Nightmare Neighbors'

A bank-owned or real estate-owned (REO) property is a property that has reverted to the mortgage lender after the home fails to sell in a foreclosure auction following a judgement of foreclosure. During the subprime crisis of the late 2000's the housing market saw a significant slump and many homeowners found themselves incapable of maintaining their mortgages. This period saw a massive increase in the number of bank-owned homes as the number of foreclosures climbed and the number of buyers available dropped, leaving banks holding properties. Unfortunately, many banks failed to maintain their newly owned properties, spreading blight through many neighborhoods.

Spurred by this crisis, New York took action. On December 15, 2009 Governor Paterson signed into law one of the strongest foreclosure protection bills in the nation. Within the legislation, a provision championed by Senator Klein was embedded to amend Chapter 507 of the New York State Real Property Law to protect foreclosed properties in the wake of the subprime foreclosure crisis. The provision, known as the property maintenance requirement, requires that financial institutions that are awarded a judgment of foreclosure be responsible for meeting the property maintenance standards as prescribed by the New York State Property Maintenance Code Chapter Three until ownership transfers through the closing of title in foreclosure. Furthermore, the provision gives municipalities, tenants or boards of managers (with regards to condominiums) the right to enforce the duty to maintain and have a cause of action to recover costs incurred as a result of maintaining the property.

Unfortunately, eight years later, with no incentive other than to be good neighbors many of these lending institutions have not taken this duty to maintain seriously. IDC staff visited scores of bank-owned houses and found many in states of disrepair becoming eyesores in communities. Many other properties were vacant, but lacked for sale signs. Many of these properties exhibited signs of decreased maintenance, as they sit empty in neighborhoods, without the possibility of new families moving in and bringing them up to code. Empty homes deteriorating slowly cause problems for neighborhoods. A 2014 report done for the National Bureau of Economic Research[2] using data from Pittsburgh, found a 19% increase in crime within 250 feet of a vacant property. The report also found a weaker correlation between higher incidences of property crimes and vacant properties. Another concern with vacant properties is fire. A report by FEMA[3] in 2015 found that in more than half of fires in vacant building, the fire spread to the whole building, something that is true only for 14% of fires in occupied buildings. This report also found that in 11% of fires in vacant properties, the fire spread to neighboring properties. The main cause of fires in vacant building according to FEMA were intentional ones. The IDC believes that homes in a state of disrepair, accumulating violations that aren't rectified, and/or being left empty for long periods of time deserve the title of nightmare neighbors.

Part II: The Effects of Foreclosed and Abandoned Properties on Communities

While the intent of the New York State property maintenance code is to preserve housing stock and guarantee safe and habitable conditions for tenants, house price value conservation and even appreciation is a key positive externality resulting from the code. Homes are, in part, valued by the state of their surrounding community. Therefore, proper maintenance of neighboring homes positively contributes to the state of a home's surrounding community. In other words, homes that are located in communities with adequately maintained surrounding properties either preserve their value or experience an appreciation in value. Conversely, homes located in dilapidated neighborhoods with, for example, multiple foreclosed homes that have accumulated numerous complaints and violations, tend to depreciate.

Since the subprime mortgage crisis nearly ten years ago, a myriad of studies have been conducted to measure the effect foreclosed homes have on the value of surrounding homes. A paper published

[2] Cui, Lin & Ranbdall Walsh (October 2014) *FORECLOSURE, VACANCY AND CRIME. Working Paper 20593* National Bureau Of Economic Research, available at: http://www.nber.org/papers/w20593.pdf
[3] Topical Fire Report Series, Vacant Residential Building Fires (2010-2012), U.S. Department of Homeland Security • U.S. Fire Administration National Fire Data Center ,Volume 15, Issue 11 / March 2015, available at https://www.usfa.fema.gov/downloads/pdf/statistics/v15i11.pdf

in 2012 by the Center for Responsible Lending cites the study, "The Contagion Effect of Foreclosed Properties," where the authors Harding et al. estimate that, on average, a foreclosed home reduces the house price value of homes located within a 300-foot radius by 1.3 percent.[4] Ultimately, they concluded that this results in a depreciation of, on average, $5,000 per property within the 300-foot radius.

Many of the various studies done to examine the effects of foreclosures on neighboring property values also tackled the issue of what effect having a vacant and abandoned property nearby, regardless of whether that property was being foreclosed upon or not, have. These studies have found that having a nearby vacant and abandoned property has a negative impact on property values. One early influential study found a very significant negative effect on values (a 3.5% loss in value) for properties 250 feet away, but then saw that effect quickly disappear[5] as one moved further away. The same study determined that the effects on individual property values of a purely vacant or abandoned property were very similar in scope to that of a foreclosed property. A more recent study done in Atlanta that examined many of the preceding research on the issue, including the aforementioned study, had a more conservative estimate of a loss of 1.12% of property values to properties within 500 feet of the vacant property[6]. Given the various papers on the issue we saw, staff decided to utilize the conclusions drawn by Harding et al.[7] that the reduction of neighboring property values caused by a nightmare neighbor would equal a 1.3% drop in property values to all homes within a 300-foot radius.

The IDC conducted research and a data analysis to determine the number of homes whose values have depreciated due to surrounding bank-owned properties. First, all properties were categorized by zip code. Then, each zip code was entered into the American Fact Finder website managed by the United States Census Bureau to extract the number of one-to-four family units located in each zip code. Next, using the site ProximityOne.com, which provides land area information for each zip code using 2010 Census data, the square mileage of each zip code was identified, and then converted into square footage. Then, by dividing the total number of one-to-four family units in the zip code by the total square footage of the zip code, the office researcher was able to determine the number of one-to-four family units per square footage. Lastly, by multiplying the number of one-to-four family units per square footage by the area of a 300-foot radius, we can determine how many properties would fall within that radius of any nightmare neighbor property identified in that zip code.

Part III: Research and Results

Identifying Bank-Owned Properties

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[4] Harding, J., Rosenblatt, E., Yao, V. (2008). *The Contagion Effect of Foreclosed Properties*. Journal of Urban Economics, Vol. 66, No. 3, pp. 164-178.

[5] Michelbank, Brian (November 2008) , *A. Spatial Analysis Of The Impact Of Vacant, Abandoned And Foreclosed Properties,* Office of Community Affairs Federal Reserve Bank of Cleveland, pgs. 15, 21-24.

[6] Immergluck, Dan PhD. (September 1, 2015) *The Cost of Vacant and Blighted Properties in Atlanta: A Conservative Analysis of Service and Spillover Costs. Final Report*. Prepared for the City of Atlanta. Available at: http://45tkhs2ch4042kf51f1akcju.wpengine.netdna-cdn.com/wp-content/uploads/2016/02/Cost-of-Vacant-and-Blighted-Properties-in-Atlanta.pdf

[7] Harding, J., Rosenblatt, E., Yao, V. (2008). *The Contagion Effect of Foreclosed Properties*. Journal of Urban Economics, Vol. 66, No. 3, pp. 164-178.

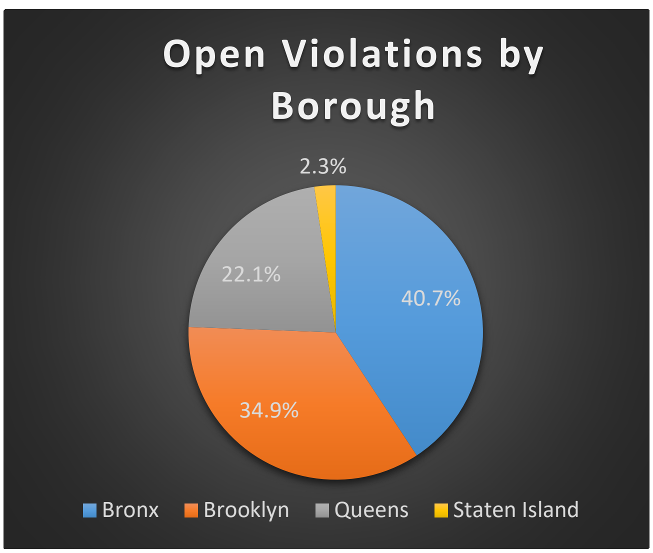
In October 2017, the IDC conducted a survey of bank-owned properties throughout New York City using the reputable California-based real estate tracking site RealtyTrac.com. According to this website, a total of 778 one to four family properties were identified as bank-owned and having been awarded a judgment of foreclosure; thus falling under the obligation laid out in Section 6 of Chapter 507 of the Laws of 2009. IDC staff then sought to confirm the ownership of the list of properties retrieved from RealtyTrac.com. To do so, our offices examined property ownership records through the Automated City Register Information System (ACRIS)[8]. After examining ownership records through ACRIS, IDC staff identified 336 bank-owned one-to-four family properties in The Bronx, Brooklyn, Queens, and Staten Island.

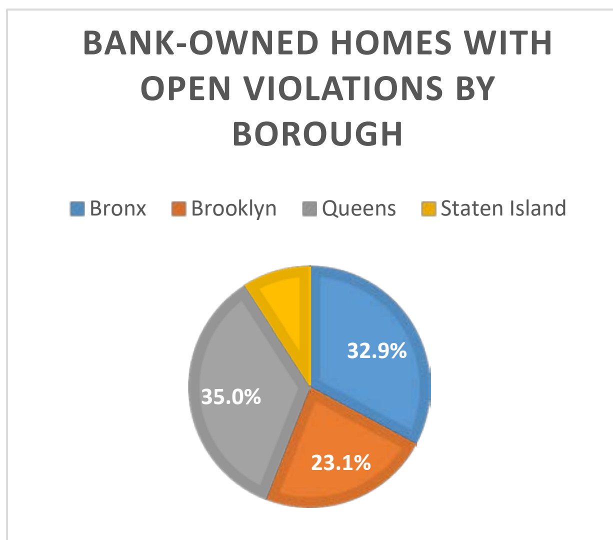
Failure of Financial Institutions to Comply with the Law

In order to determine if the banks' complied with the 2009 law, IDC staff verified the complaint history of bank-owned properties using the New York City Department of Buildings (DOB)[9] and Housing Preservation and Development (HPD) websites.[10] Staff recorded properties that currently have *open* violations. Having open violations means that the property owners have not certified with New York City that the violations have been remediated. Violation data on the websites is current as of October 27, 2017. These violation histories reflect information provided by New York City, and are subject to change as the City updates and alters the information provided in the databases. IDC staff also conducted a visual inspection of bank owned properties throughout the four boroughs to confirm properties that are failing to meet the standards laid out in the law.

Citywide Analysis

Of the 336 properties confirmed as bank owned, a total of 143, or 42.6%, were found to have open violations. The worst ratio was found in The Bronx, where 61% of all the bank-owned properties identified had open violations. Even in the borough with the lowest percentage, Staten Island, we found that nearly 30% of bank owned properties had open violations. These properties have a combined total of 2,610 open violations with HPD and the Department of Buildings.





[8] Website available at: http://a836-acris.nyc.gov/CP/
[9] NYC Department of Buildings. Retrieved between October 16-October 26, 2017, from http://www1.nyc.gov/site/buildings/index.page
[10] NYC Housing Preservation and Development. Retrieved between October 16-October 26, 2017, from http://www1.nyc.gov/site/hpd/index.page

Queens had the most bank-owned properties with open violations, with 35% of them, but these properties only accounted for 22.1% of all the open violations. The Bronx had nearly as many properties, with 32.9% of the bank-owned properties, and these accounted for 40.7% of all the open violations. Brooklyn had a little under a quarter of the bank-owned properties with open violations, at 23.1%, but properties in that borough accounted for over a third of the recorded violations, at 34.9%. Staten Island came in last both in terms of the bank-owned properties, with 9% of those, and those properties accounted for only 2.3% of the recorded open violations.

A total of 26 different financial institutions own the 143 properties with open violations. The five institutions with the most recorded violations accounted for over half of the open violations found (52.3%). All five of these institutions were found to own properties with open violations in at least three of the four boroughs.

Financial Institution	Open HPD and DOB Violations	Percentage of Total Violations
US BANK	349	13.4%
WILMINGTON SAVINGS FUND SOCIETY	283	10.8%
WELLS FARGO	253	9.7%
GOSHEN MORTGAGE REO LLC	249	9.5%
FEDERAL NATL MTG ASSN	231	8.9%

Utilizing the data analysis created by staff, we determined how many homes would see their property values affected by these nightmare neighbors citywide. Median property values were found for each zip code using the respected real estate website Zillow[11] to get the most up-to date data, and if data was not found there, we utilized the values found on American Fact Finder. These values were used to determine the 1.3% value depreciation to the properties determined to be within a 300-foot radius. Ultimately, the research and analysis concluded that **8,392 one-to-four family properties in four boroughs of New York City examined have lost approximately $6,398 in value, and in total, these bank-owned homes have caused over $53.44 million in house value depreciation.**

Borough	# of Bank-owned Properties with violations	Average Median Property Value	Average Depreciation Rate Per Property	Properties Impacted	Property Value Depreciation
Bronx	47	$381,769	$4,963	2,193	$10,615,211
Brooklyn	33	$589,846	$7,668	2,876	$22,054,995
Queens	50	$481,769	$6,263	2,864	$17,940,775
Staten Island	13	$474,385	$6,167	459	$2,829,228
Totals	**143**	**$489,846**	**$6,368**	**8,392**	**$53,440,209**

[11] Website found here: https://www.zillow.com/

The total depreciation caused by the top five worst violators citywide was $31,161,359, or 58% of the total depreciation of $53,440,209 in all of New York City.

Financial Institution	Number of Properties Held	Total Depreciation	Percentage of Total Depreciation ($53.4M)
US Bank	24	$7,720,066.00	14.4%
Wells Fargo	14	$6,189,841.00	11.6%
Fannie Mae	18	$6,104,268.00	11.4%
HSBC	10	$5,631,212.00	10.5%
Wilmington	15	$5,515,972.00	10.3%

Analysis by Borough -Bronx

Forty-seven of the bank-owned properties in the Bronx had open violations. This is out of a total of 77 confirmed bank-owned properties in the Bronx, or 61% of all confirmed real estate-owned properties in The Bronx. There are currently 1,063 open violations. The five financial institutions with the most open HPD and DOB violations accounted for 68.5% of all the violations.

Financial Institution	Open HPD and DOB Violations	Percentage of Total Violations in the Bronx
GOSHEN MORTGAGE REO LLC	212	19.9%
HSBC BANK USA NA	166	15.6%
WELLS FARGO	146	13.7%
US BANK	103	9.7%
WILMINGTON SAVINGS FUND SOCIETY	101	9.5%

Ultimately, the research and analysis concluded that one to four family properties in the Bronx **have lost approximately $4,963 in value, and in total, these bank-owned homes have caused over $10.62 million in house value depreciation.**

Borough	# of Bank-owned Properties with violations	Average Median Property Value	Average Depreciation Rate Per Property	Properties Impacted	Property Value Depreciation
Bronx	47	$381,769	$4,963	2,193	$10,615,211

The 47 bank-owned properties with violations were owned by 17 different banks. Using each entity's property holdings, staff performed an analysis on every residential building held by those financial institutions with the most properties. Cross-checking each property against the demographic information for each zip code, the IDC was able to determine the amount of depreciation for each property, and ultimately the total for each bank by adding up the depreciation of each property they hold.

The top five financial institutions were responsible for $6,576,966 of the $10,615,211 in total depreciation recorded. This is 62% of the total depreciation caused by a total of 27 properties out of the 47 identified in The Bronx.

Financial Institution	Number of Properties Held	Total Depreciation	Percentage of Total Depreciation ($10.6M)
US Bank	12	$2,790,321.00	26.3%
Wilmington	4	$1,227,815.00	11.6%
Fannie Mae	5	$888,713.00	8.4%
HSBC	3	$843,654.00	7.9%
Federal Home Loan Mortgage Corp	3	$826,463.00	7.8%

Analysis by Borough –Brooklyn

Thirty-three of the bank-owned properties in Brooklyn had open violations. This is out of a total of 60 confirmed bank-owned properties in Brooklyn, or 55% of all confirmed REO-owned properties in Brooklyn. There are currently 910 open violations. The five financial institutions with the most open HPD and DOB violations accounted for 64.7% of all the violations.

Financial Institution	Open HPD and DOB Violations	Percentage of Total Violations in Brooklyn
US BANK	145	15.9%
BANK OF AMERICA NA	140	15.4%
21ST MTG CORP	103	11.3%
NATIONSTAR MORTGAGE LLC	103	11.3%
FEDERAL NATL MTG ASSN	98	10.8%

Ultimately, the research and analysis concluded that one-to-four family properties in Brooklyn **have lost approximately $7,668 in value, and in total, these bank-owned homes have caused over $22 million in house value depreciation.**

Borough	# of Bank-owned Properties with violations	Average Median Property Value	Average Depreciation Rate Per Property	Properties Impacted	Property Value Depreciation
Brooklyn	33	$589,846	$7,668	2,876	$22,054,995

The 33 bank-owned properties with violations were owned by 16 different banks. The top five financial institutions were responsible for $13,702,671 of the $22,054,995 in total depreciation recorded. This is 62% of the total depreciation caused by a total of 19 properties out of the 33 identified in Brooklyn.

Financial Institution	Number of Properties Held	Total Depreciation	Percentage of Total Depreciation ($22.1M)
HSBC	5	$4,025,864.00	18.3%
WELLS FARGO	4	$3,015,491.00	13.7%
US BANK	4	$2,657,326.00	12.0%
BANK OF NY MELLON	4	$2,416,657	11.0%
FANNIE MAE	2	$1,587,333	7.2%

Analysis by Borough-Queens

Fifty of the bank-owned properties in Queens had open violations. This is out of a total of 155 confirmed bank-owned properties in Queens, or 32.3% of all confirmed real estate-owned properties in Queens. There are currently 576 open violations. The five financial institutions with the most open HPD and DOB violations accounted for 74.8% of all the violations.

Financial Institution	Open HPD and DOB Violations	Percentage of Total Violations in Queens
WILMINGTON SAVINGS FUND SOCIETY	97	16.8%
US BANK	95	16.5%
WELLS FARGO	86	14.9%
MORGAN STANLEY	77	13.4%
BANK OF NEW YORK MELLON	76	13.2%

Ultimately, the research and analysis concluded that one-to-four family properties in Queens **have lost approximately $6,263 in value, and in total, these bank-owned homes have caused over $17.9 million in house value depreciation.**

Borough	# of Bank-owned Properties with violations	Average Median Property Value	Average Depreciation Rate Per Property	Properties Impacted	Property Value Depreciation
Queens	50	$481,769	$6,263	2,864	$17,940,775

The 50 bank-owned properties with violations were owned by 16 different banks. The top five financial institutions were responsible for $11,461,765 of the $17,940,775 in total depreciation recorded. This is 64% of the total depreciation caused by a total of 32 properties out of the 50 identified in Queens.

Financial Institution	Number of Properties Held	Total Depreciation	Percentage of Total Depreciation (17.9$M)
FANNIE MAE	8	$2,951,930.00	16.5%
WILMINGTON	8	$2,750,846.00	15.3%
WELLS FARGO	6	$2,370,506.00	13.2%
US BANK	6	$1,696,719.00	9.5%
BANK OF NY MELLON	4	$1,691,764.00	9.4%

Analysis by Borough-Staten Island

Thirteen of the bank-owned properties in Staten Island had open violations. This is out of a total of 44 confirmed bank-owned properties in Staten Island, or 29.5% of all confirmed real estate-owned properties in Staten Island. There are currently 61 open violations. The three financial institutions with the most open HPD and DOB violations accounted for 77% of all the violations.

Financial Institution	Open HPD and DOB Violations	Percentage of Total Violations in Staten Island
DEUTSCHE BANK	24	39.3%
FANNIE MAE	15	24.6%
WILMINGTON	8	13.1%

Ultimately, the research and analysis concluded that one-to-four family properties in Staten Island **have lost approximately $6,167 in value, and in total, these bank-owned homes have caused over $2.8 million in house value depreciation.**

Borough	# of Bank-owned Properties with violations	Average Median Property Value	Average Depreciation Rate Per Property	Properties Impacted	Property Value Depreciation
Staten Island	13	$474,385	$6,167	459	$2,829,228

The 13 bank-owned properties with violations were owned by eight different banks. The top five financial institutions were responsible for $2,237,846 of the $2,829,228 in total depreciation recorded. This is 79% of the total depreciation caused by a total of 10 properties out of the 13 identified in Staten Island.

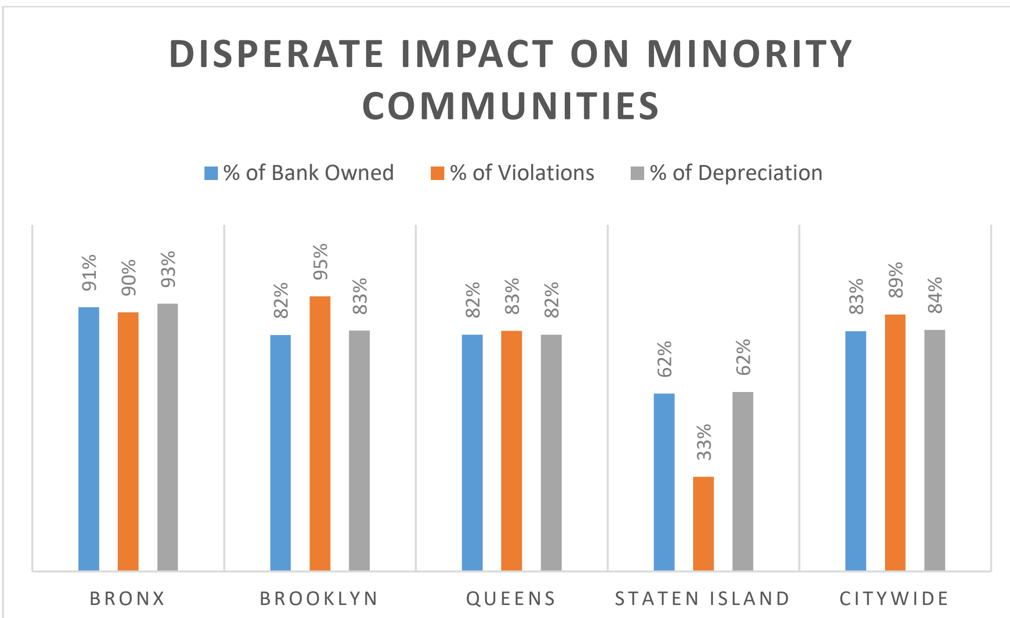
Financial Institution	Number of Properties Held	Total Depreciation	Percentage of Total Depreciation ($2.8M)
FANNIE MAE	3	$676,292.00	23.9%
US BANK	2	$575,700.00	20.3%
DEUTSCHE BANK	1	$352,869.00	12.5%
WILMINGTON	2	$352,679.00	12.5%
FEDERAL HOME LOAN MORTGAGE CORP	2	$280,306.00	9.9%

Disparate Impact on Low-Income Communities

Time after time, minority communities are the victims of unfair housing practices, while low-income communities are often neglected. The IDC wanted to examine whether the presence of properties deemed nightmare neighbors have a disproportionate effects on the most vulnerable sections of New York City. For the purpose of data analysis, the IDC defined a minority community as one comprised of 50% or more black and Hispanic residents and a low-income neighborhood was classified as any zip code with a poverty rate greater than 20.6% – the New

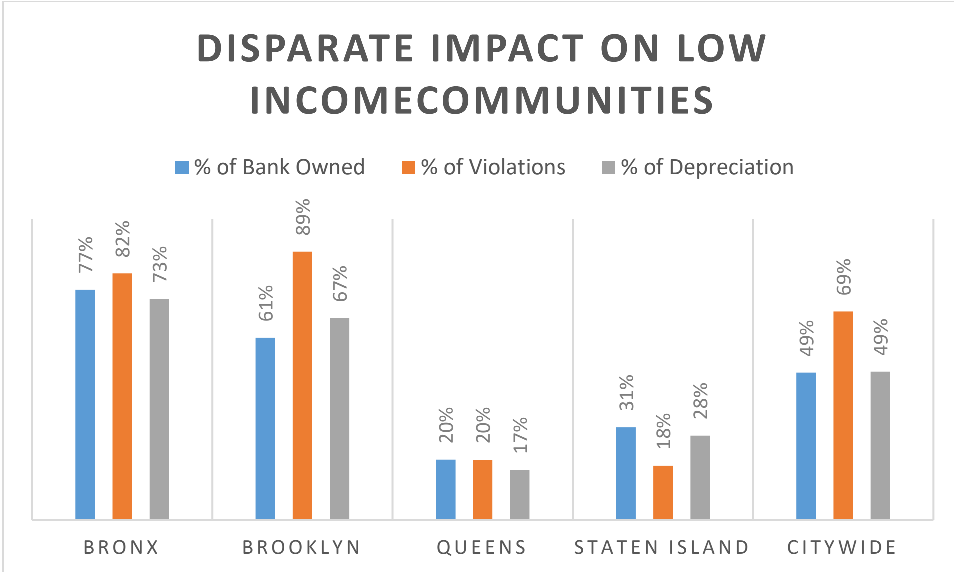
York City average.[12] Demographics data for each zip code was retrieved from the American Fact Finder website managed by the United States Census Bureau.

IDC staff documented bank-owned one to four family homes in 76 different zip codes in The Bronx, Brooklyn, Queens, and Staten Island. Of these 76 zip codes, 46, or 61% of the total, were categorized as minority communities and 26, or 34%, were determined to be low-income, with a poverty rate exceeding the citywide average. Of the total 76 zip codes, 55 turned up bank-owned properties with open violations, and of these, 46 are minority zip codes and 21 are low-income ones. This means that bank-owned properties with open violations are even more heavily concentrated in minority communities, with 69% present in these zip codes, as opposed to 61%, while the percentage of properties in low-income areas increased to 38% from 34%.



When we analyzed the percentage of bank-owned properties with open violations, we found the majority of bank-owned properties with open violations concentrated in minority communities. While 69% of the communities with these properties were minority ones, in total 83% of the properties were located in the minority communities. In every borough, more than 60% of the properties were located in minority communities. We similarly found that citywide, 89% of the open violations were in minority communities. This varied greatly between boroughs, with 95% of Brooklyn violations found in minority communities, while only 33% of them were located in minority communities in Staten Island. In terms of the depreciation of property values, minority communities suffered the most again, with 84% of the total depreciation cased impacting minority communities. In every borough, at least 60% of the loss of property values was felt by a minority community.

[12] New York City poverty rate found: United State Census Bureau. (2015). *New York City* United States Department of Commerce. Retrieved from https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=CF



The effects of these properties were also greater on low-income communities overall, though not nearly to the degree we see with minority communities. While 38% of the communities affected citywide were low-income, 49% of the properties, 69% of the total open violations, and 49% of the home value loss occurred in low-income communities.

PART IV: RECOMMENDED SOLUTIONS

Good Neighbor Legislation

Senator Klein and the members of the IDC believe that to tackle properties that have become nightmare neighbors, we need to build on the achievements of the legislation passed in 2016 to address zombie properties by ensuring that other properties that cause problems are treated similarly. In this case, the additional steps enshrined into law in 2016 should also come to apply to bank-owned properties, so that the greater enforcement tools made available by that law can be used to ensure that the duty to maintain imposed in 2009 is being honored. These steps include expanding the scope of the current DFS registry to include properties covered by the 2009 duty to enforce law and establishing penalties for entities that fail to adequately maintain properties. In addition, the senators want to ensure that DFS will be actively inspecting properties to ensure the law is being followed and will propose to provide DFS with the resources to do so.

Expanding the Registry

First, to address the problem of local governments being able to track the ownership of bank-owned properties after a judgment of foreclosure has been entered, we propose expanding the existing DFS registry under RPAPL 1310 to also include all bank-owned properties post-foreclosure in which a duty to maintain attaches. Thus, the DFS registry would contain all vacant and abandoned properties in which the bank has the duty to maintain, both prior to the judgment of foreclosure and after the judgement of foreclosure before the bank sells the property.

Similar to the duty to maintain for zombies under the 2016 law, all registry information would be maintained confidentially by DFS with public officials allowed to access the registry from DFS. This would place all vacant and abandoned properties and all bank-owned properties in one central location for localities and DFS to track. In similar fashion to the 2016 registry provisions, banks would be required to report to the registry all bank-owned properties upon which a judgment of foreclosure has been entered within 21 days of the bank's duty to maintain the property attaching.

The information submitted to the registry for bank-owned properties would include the name, address and contact information of the lender or responsible loan servicer, and the date the judgment of foreclosure was entered. In addition, banks would be required to report to the registry the date that the property was deemed vacant and abandoned or the date that the bank's duty to maintain commenced. The registry information for banks and the loan service provider must also include the names of all officers of the corporation who are eligible to receive service of process. Finally, any changed information must be updated within 30 days of the bank or loan servicer having learned or should have learned of the changed information.

New Penalties

Second, to enhance the ability to enforce the duty to maintain for bank-owned properties, this legislation would add monetary fines under the 2009 law for failure of banks to maintain the vacant and abandoned property once the judgment of foreclosure is entered. Currently, a municipality can only bring a lawsuit against the bank for failure to maintain in which the municipality simply receives costs incurred for the municipality maintaining the property. Under this bill, municipalities and DFS can bring fines of $500 per day per violation for the bank's failure to maintain the property post-foreclosure or for failure to report the bank-owned property to the registry. This penalty structure is similar to the fines imposed for failure by the banks to maintain the zombie properties prior to foreclosure under the 2016 law.

Requiring On-Site DFS Inspections & State Funding for Enforcement

Third, to improve the state's ability to ensure that institutions are fulfilling their duty to maintain bank-owned and zombie properties, this proposal will advocate for $5 million to have DFS and localities hire code enforcement officers to track vacant and abandoned properties and monitor the bank's compliance with the 2009 and 2016 laws. The money could also be used to hire attorneys to bring enforcement actions and fines against the banks for lack of compliance.

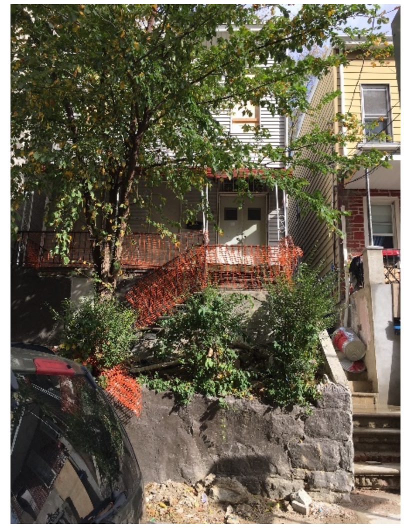
Further, this proposal supports enhancing enforcement of the 2009 and 2016 laws by requiring DFS to perform periodic on-site inspections of each property listed in the registry. DFS would be required to perform an initial inspection of each property within four months of the property being deemed vacant and abandoned, with DFS required to re-inspect the property every six months thereafter, until the bank no longer owns the property and its duty to maintain the property has ceased. For any bank-owned properties that are not vacant and abandoned (e.g. tenant living at property), the DFS initial inspection must be performed within four months of the property being submitted to the registry by the bank, and every six months thereafter until the bank no longer owns the property.

Conclusion

In the last decade New York has taken some important steps towards ensuring that financial institutions take responsibility for maintaining properties that they are foreclosing on and have become vacant or abandoned and properties they have come to own due to a judgement of foreclosure. In 2016 a strong new law imposing not only a duty to maintain, but also creating a registry and creating new enforcement options was passed, but this law covers only one subset of these properties. The IDC believes it is crucial that this new improved framework be applied to properties that banks became duty-bound to maintain thanks to a 2009 statute. While that 2009 law imposed a duty to maintain, this report by Senators Jeffrey Klein and his IDC colleagues shows that banks aren't doing enough to maintain these properties and fulfill that duty. IDC investigators found instances of houses identified as bank owned properties that are in a state of disrepair, and found thousands of open HPD and DOB violations on the books. In order to better enforce these existing laws, the IDC proposes including bank-owned properties into the new registry of zombie properties so that DFS and localities can keep track of these properties. They also want to expand penalties for the failure to maintain and create a schedule of inspections along with additional resources so the Department of Financial Services (DFS) can more effectively enforce the law.

Photos of Nightmare Neighbors:

The Bronx



Brooklyn

Queens

Staten Island