

TACKLING THE CALIFORNIA FORECLOSURE CRISIS – AN AGENDA FOR STATE ACTION

The Housing Crisis and Barriers to Home
Ownership in California
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Starting points

- California's foreclosure crisis affects home owners, but not only home owners
- The crisis affects entire neighborhoods and cities
- The conditions that led to the crisis are unusual, but could recur.
- The crisis points to important weaknesses in recent American thinking about housing policy.

Implications

- Measures should be put in place to protect homeowners
- Actions should be taken to protect neighborhoods and cities
- Steps should be taken to prevent a recurrence of the crisis in the future.
- New approaches to affordable home ownership should be designed and put in place.

Why California?

- Despite some Federal pre-emption, states have broad scope to address the foreclosure crisis.
- Local government resources and legal powers are both limited.
- California has a history of activist government in consumer protection and housing.
- California has already taken important steps to address these issues

Protect homeowners

- Help borrowers gain greater access to counseling and short-term assistance
- Ensure a fair foreclosure process
- Encourage creditors to pursue alternatives to foreclosure
- Prevent predatory and fraudulent foreclosure 'rescue' practices.

Protect neighborhoods

- Foreclosures destabilize neighborhoods
- Foreclosures impose burdens on local government
- Foreclosures diminish property values.

BUT...

- Most of the damage results from lack of maintenance and/or abandonment, not foreclosure as such.

Foreclosure and abandonment are closely linked

- **Most** foreclosed properties sit vacant for some length of time
- **Many** vacant properties undergo significant property damage before or after foreclosure sale.

The risk of neighborhood damage is greatest where market is weak

- Owner more likely to leave before foreclosure sale
- Creditor less concerned with preserving value of property
- Creditor may not even finalize foreclosure, leaving property in limbo.
- Vacant property more likely to be stripped and vandalized.

What should be done about this?

- Local government should act – cities and counties are on the front line, but need the state's support
- State should provide cities and counties with the tools for action.

Local strategies

- Where market for properties exists, ensure they are maintained (and if possible remain occupied) until reused – ***short-term strategy***
- Where market does not exist, hold properties until reuse opportunities are created – ***long-term strategy***

Adopt short-term strategies in strong markets

- Maintain *continuity of responsibility* for property
- Build capacity to enforce codes and to collect for nuisance abatement and demolition activities
- Expedite foreclosure for vacant properties
- Keep owners and tenants in properties
- Use HERA funds strategically to achieve clear stabilization goals.

Adopt long-term strategies in weak markets

- Use all short-term strategies

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- Create land bank/property recycling entity to acquire and hold property

Use HERA funds strategically

- Target resources around neighborhood stabilization strategies.
- Understand the market forces working in your city – when to acquire, when to rehab, when to demolish
- Leverage HERA resources with other public and private funds
- Link acquisition/rehab efforts to other stabilization strategies such as code enforcement
- Organize for success

Local strategies require state-level action

- Enable properties to stay occupied
- Provide tools to ensure maintenance of vacant properties during/after foreclosure process
- Make foreclosure process timely and transparent
- Facilitate land banking/property recycling efforts
- Ensure effective use of HERA funds

Keep properties occupied

- Remove foreclosure as grounds for eviction of legal tenant
- Permit former owners to remain in property as tenants after foreclosure sale

Provide tools to ensure maintenance of vacant properties

- Impose legal responsibility on foreclosing entity for vacant property prior to foreclosure sale
- Provide broad code enforcement and nuisance abatement authority
- Provide effective means to collect costs of nuisance abatement including liens and judgments
- Provide receivership and 'spot blight' tools

Make foreclosure process timely and transparent

- Provide for timely foreclosure, with expedited process for vacant properties
- Ensure recording of all deeds after foreclosure sale
- Enact 'step in the shoes' provisions for non-performing creditors.

Facilitate land banking/property recycling efforts

- Create clear legal framework for land banking and property recycling at city, county and regional levels
- Provide financial resources for land banking entities, including funds to build operating capacity to maintain inventory
- Facilitate land bank efforts to obtain properties from lenders and servicers.

Ensure efficient use of HERA funds

- State will get large share of HERA funds
- State can sub-allocate to cities and counties, OR enter directly into contracts with sub-recipients
- State should ensure that funds are used in ways that are
 - Cost effective
 - Market sensitive
 - Strategic

Prevent a future recurrence of the crisis

- Establish strict standards for the mortgage brokerage industry
- Ban inappropriate and abusive lending practices

Set strict standards for the mortgage industry

- Scope of licensure
- Education and experience
- Examination
- Fitness
- Offices
- Financial resources and accountability
- Records and reporting

Bar inappropriate or abusive lending practices

- Improper underwriting practices
 - Best available product
 - Ability to pay
 - Net tangible benefit
- Inappropriate loan provisions
- Other lending practices, such as yield spread premiums.

Frame rational home ownership policies

- Recognize constraints as well as benefits of lower income home ownership
- Create realistic, workable mortgage products
- Build a support system for lower income home ownership
- Use shared-equity home ownership models to preserve community value.

Thank you

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