

**UNITED STATES HOUSE OF REPRESENTATIVES
FINANCIAL SERVICES COMMITTEE HEARING
Wednesday, August 23, 2006**

Written Testimony Submitted by:
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Introduction

Good Morning Mr. Chairman, Honorable Members of the Financial Services Committee, public & elected officials, residents, distinguished fellow panelists and guests. On behalf of Mayor Frank G. Jackson, I welcome you to the City of Cleveland, and I am honored to represent the Mayor and the citizens of Cleveland before you this morning.

I understand that the purpose of today's hearing is to explore issues related to foreclosures and predatory lending:

- Why is the home foreclosure rate in Cuyahoga County so high?
- What current programs and laws are in place to assist new homebuyers?
- What steps are now being taken to assist homeowners who are on the verge of facing foreclosure?
- What can federal, state and local governments do to reduce the number of foreclosures?

My testimony will address the questions from the perspective of local government in general and specifically the City of Cleveland.

Local Landscape

An important consideration in the discussion of foreclosures in Cuyahoga County and the City of Cleveland is the fact that the area is a slow growth or weak market region. A "weak market city" may be characterized by declining population, marginal economic growth and a declining city core. (See generally, Building a New Framework for Community Development in Weak Market Cities, Paul C Brophy & Kim Burnett, April 2003). Such cities are challenged by continuing population loss and stagnant economies. People living in weak market cities, many of whom are low and moderate income people, struggle to retain and build wealth or access services to improve their quality of life. *Id.* (See Also, Revitalizing Weak Market Cities in the U.S., Bruce Katz, May 8, 2006). With that backdrop, the city has been primed for its residents either find themselves in unfortunate financial circumstances, or fall victim to unscrupulous conduct by conspirators involved with predatory lending.

The state of Ohio lost 236,700 jobs between March 2001 and December 31, 2003, and two-thirds of the job loss was in better paying manufacturing sectors. Northeast Ohio

was over-represented in the loss of jobs. The area lost over 70,000 jobs in the 2 year period.

During the same period there was an increase in sub-prime lending in the city. Even though not every sub-prime loan is predatory, studies have discerned that sub-prime loans are three-times more likely to result in foreclosure than prime loans. The combination of the economic downturn and the influx of well-marketed sub-prime loans, particularly to susceptible population segments, has lead to a local crisis.

The Foreclosure Crisis

Statewide, foreclosures have increased three-fold between 1995 and 2005 -- from 17,026 in 1994 to 63,996 last year (Foreclosure Growth in Ohio, Policy Matters, July 2006). The rate has grown in 60 of the state's 88 counties. Id. However, the trend upward is more prevalent in urban areas. Unfortunately, Cuyahoga County ranks highest in per capita filings. The principle causes of foreclosure are:

- Loss of employment/lower employment/weak economy,
- Predatory lending (including flipping),
- Divorce or family break-up,
- Medical emergency, and
- Borrower lack of sophistication, error or financial mismanagement.

Currently, there are over 7,000 foreclosure cases pending in the City of Cleveland, and they are increasing at the rate of 875 per month. In 2001, 58% of the foreclosed loans in the City of Cleveland had predatory characteristics. A Study of Foreclosures in the City of Cleveland, The Housing Research & Advocacy Center, October 2003. See Also, Home Insecurity 2004: Foreclosure Growth in Ohio, Policy Matters, August 2004. The characteristics of predatory loans include:

1. High interest rate or APR,
2. Loan flipping,
3. Balloon payments,
4. Negative amortization,
5. Excessive points and fees,
6. Increased interest rate (after default),
7. Advanced payments,
8. Mandatory arbitration,
9. Prepayment penalties,
10. Financing of credit insurance,
11. Lending without home loan counseling,
12. Payment by lender to contractor unless under conditions.

In 2001, 67% of Cleveland's foreclosures had at least one of the top characteristics of a predatory loan, versus 38% in 1997. African-American neighborhoods have much higher levels of sub-prime lending than White neighborhoods, even after controlling for residents' credit history or income. Home Insecurity 2004: Foreclosure Growth in Ohio,

Policy Matters, August 2004, at 11. Other groups targeted by sub-prime and predatory lenders include seniors, Latino households or communities where English is a second language.

It must be noted that closely associated with predatory loans is the practice of “flipping.” Loan flipping is defined as refinancing a property repeatedly over a short period of time without any improvements to the property or economic gain for the borrower. It is also important to note that foreclosures are typically associated with loans for home buying, but they are frequently associated with loans for home improvements or repairs.

City programs designed to improve the housing stock and to provide affordable housing have also been adversely affected by the rising foreclosure rates. Homes supported by city funded second mortgages and home repair loans are experiencing high foreclosure rates due to foreclosures filed by the primary lender. Our analysis of these foreclosure rates indicates that they are caused not by predatory lending practices but by adverse economic conditions.

Actions Undertaken By the City of Cleveland to Combat Foreclosures

The City of Cleveland is striving to address the symptoms of weak market cities and improve the quality of life for its residents. We struggle with the effects of predatory lending. High foreclosure rates in low and moderate neighborhoods result in increased vacant houses that are abandoned for extended periods of time. High vacancy rates have a devastating effect on a community – creating eyesores, fostering crime, eroding values, and undercutting civic pride and hope in the community.

Five city departments are involved with efforts to either curb foreclosures, assist those in foreclosure, or eradicate the aftermath of foreclosures: Aging, Building & Housing, Community Development, Community Relations and Consumer Affairs. The initial thrust is implementing an educational awareness and outreach effort.

The city’s strategies include (1) providing quality housing for residents of all income levels, (2) facilitating the creation of affordable loan products that fit the financial position of the city’s residents, (3) making people aware of non-predatory and affordable financial resources, (4) increasing financial literacy and counseling, (5) providing resources for those subjected to predatory loans or foreclosure.

Funding

- Over the last 5 years, the city allocated \$4,255,648 of CDBG and HOME funds for counseling and other assistance programs (see Figure 1).
- The city increased counseling targeted to the Latino community by funding the Spanish American Committee for counseling in 2005 and 2006.
- The city increased funding in 2006 for board-up and demolition of vacant housing by \$145,600.

- The city increased funding for nuisance abatement at vacant housing, including debris removal and grass cutting of by \$190,000.

Programs

In 2005, the Building & Housing Department spent an average of \$100,000 a month boarding vacant homes. Further, the city has demolished 300 vacant homes in 2005, which is near the annual average. The number of demolished houses is but a fraction of the vacant units throughout the city. The estimated number is 15,000.

The city is in the process of creating a data-base of vacant houses in order to revise strategies for reducing the number and addressing the problems they cause.

The city's Department of Consumer Affairs is the lead department for anti-predatory lending activity. It has enforcement authority, and administers the funding for anti-predatory lending programs. Its major grantee has been Housing Advocates, Inc. (HAI). Consumer Affairs is also the liaison for coordinating the city's programming with the county's programs. The city is participating with the United Way 211 First Call For Help Line. There is also a coordination of marketing and the distribution of materials for the County's Don't Borrow Trouble campaign.

The city departments participate in over 100 neighborhood meetings and community functions per year. The Departments of Aging, Community Development, Community Relations and Consumer Affairs cross-market information for home repair programs, guidelines for hiring a contractor, references for non-predatory home loans, and counseling services.

Efforts to address the foreclosure and predatory lending issues are also coordinated with non-profit agencies, many of which receive funding from the city (and county), including; ACORN, Cleveland Housing Network (CHN), Cleveland Saves, Community Housing Solutions (CHS), Consumer Credit Counseling Services of Northeastern Ohio, East Side Organizing Project (ESOP), HAI, Legal Aid Society of Cleveland, Living In Cleveland Center (LICCC), Neighborhood Housing Services (NHS), Spanish American Committee. These agencies provide an array of counseling services from financial literacy to homeowner counseling to foreclosure counseling.

In July, the city and county collaborated to sponsor a training program for community development corporations and agencies providing social services to seniors. The program outlined how the agencies may better inform people of choices to avoid as well as resources that are available.

Counseling: Counseling is considered an integral part of our local response to foreclosures and predatory lending. Pre-purchase counseling is considered to be an important part of foreclosure prevention. It is critical to increase financial literacy and promote better borrowing decisions to reduce post-loan default rates. Accordingly, counseling is available locally for:

- Financial literacy and wealth building,

- Pre purchase,
- Post purchase, and
- Foreclosure assistance.

Foreclosure counseling includes negotiating with the lender, loan modification, and forbearance. HAI serves as the intake for Cleveland's \$5 million loan rescue fund. Qualifying homeowners may have their predatory loan refinanced from a pool created by 5 local banks, and the notes are then sold to Fannie Mae. This pool is closing on its first loan. The city is participating by funding the gap created by the Fannie Mae underwriting guidelines. The participating banks are Dollar Bank, Fifth-Third Bank, Huntington Bank, Ohio Savings Bank and Sky Bank.

Neighborhood Reinvestment Program

The Neighborhood Reinvestment Program was developed in 1991 to address the relative lack of credit and related services in the City of Cleveland, especially to minorities and low-income persons and neighborhoods. Since 1991, the city of Cleveland has negotiated over \$8 billion in commitments from nine local financial institutions plus Fannie Mae and Freddie Mac. These agreements establish an investment framework within which each institution would guide its approach to operating in the Cleveland market. One of the key results of the effort has been the development of loan terms that are favorable to city residents. These loan terms generally include below-market interest rates, and low down-payment requirements. Twice a year, a non-profit partner, Living In Cleveland Center, assembles a compendium of the loan products available through local banks (See Attached Mortgage Bulletin). These loan products demonstrate that there are options to sub-prime loans in moderate-income neighborhoods.

Ordinances that Impact Foreclosure Rates

1. Predatory Lending Ordinance, Chapter 659 of the Codified Ordinances of the City of Cleveland – In 2003, the city passed Chapter 659 to combat predatory lending in the city. The ordinance proscribes specific loan terms and lending practices. The ordinance also requires notice to customers of home improvement loans, and a certification to be filed by the lender. Violations of the ordinance could result in criminal sanctions and debarment from city contracts.

After passage, the city ordinance was challenged in court. Two similar ordinances from Dayton and Toledo were stricken in court. Cleveland's law has been appealed and is currently before the Ohio Supreme Court.

2. Living Wage – The city passed the fair Employment Wage Ordinance in June 2000 as the state's first living wage law. The ordinance requires a higher wage for the city or certain employers contracting with the city. The requisite wage is tied to the Consumer Price Index to rise with inflation.
3. Resident Employment Law - Section 188 of the Codified Ordinances of the City of Cleveland – In 2004, the city passed Section 188, which requires the

employment of city residents for construction jobs receiving over \$100,000 of city funding. The intent of the ordinance is to provide job opportunities for residents to reduce unemployment and raise wages.

Actions federal, state and local governments do to reduce foreclosures:

- CDBG – The CDBG allocation to the city has declined 21.1% over the last 5 years with a 10.4% reduction for year 32 (See Figure 2). Maintaining the current level or increasing CDBG funding would better position the city to address the ravages directly associated with foreclosures and assist in preventing them, but the resultant issues (nuisance abatement, demolition, rehabilitation, etc.).
- HOME – The HOME allocation to the city has declined 28.2% over the past 5 years. The ongoing decrease in HOME funding has a similar effect as the decrease in CDBG funding, particularly since low and moderate income neighborhoods appear to be targeted by predatory lenders.
- Change HOME and CDBG guidelines to enable the city to participate in refinancing predatory loans.
- Maintain CRA regulations. Last year oversight guidelines were reduced for thrifts. A like change for banks would undercut the progress made to increase the volume and quality of lending by banks in the city. Further, a reduction in oversight during the nationwide foreclosure crisis sends the wrong message about the need for less onerous loan terms.
- Increase regulatory oversight for mortgage brokers and appraisers on a national level, and institute criminal sanctions for deceptive or fraudulent conduct.
- Increase funding for municipalities to improve data gathering and technology systems. The city and county are upgrading their data collection and monitoring systems to better track and evaluate foreclosure related issues. Data and MIS systems are critical for evaluating trends and methods for addressing problems. Increased resources to assist in these efforts would be beneficial.
- Increase the minimum wage. While increasing the minimum wage increase may not directly increase a family's ability to buy a home, it sets a floor for wages that creates a higher standard.
- Increase funding for training. Particularly in areas of high job loss, training and re-training are necessary to re-tool the labor force.

Conclusion

To thrive in a slow growth region, Cleveland must set a new standard for public and private conduct. We have begun to hold lenders, absentee owners and developers accountable for their neglect, disinvestment and insensitivity. The threats presented by foreclosures, predatory lending, and a sluggish economy challenge our efforts to provide superior public services, resources and housing opportunities for Cleveland residents to enjoy a high quality of life, accumulate wealth and build personal assets. However, Mayor Jackson is strongly committed to creating neighborhoods of choice where residents are free from threats to their homes from unscrupulous lenders.

Thank You.

References

1. A Study of Foreclosures in the City of Cleveland, The Housing Research & Advocacy Center, October 2003.
2. Chapter 659, Codified Ordinances of the City of Cleveland: Predatory Lending, Ord. No. 45-03, passed January 13, 2003.
3. Foreclosure Growth in Ohio, Policy Matters, July 2005.
4. Foreclosure Growth in Ohio, Policy Matters, July 2006
5. Home Insecurity 2004: Foreclosure Growth in Ohio, Policy Matters, August 2004.
6. Building a New Framework for Community Development in Weak Market Cities, Paul C Brophy & Kim Burnett, April 2003. <http://www.cdnpn.org/>
7. Revitalizing Weak Market Cities in the U.S., Bruce Katz, May 8, 2006

Attachments

1. A Study of Foreclosures in the City of Cleveland, The Housing Research & Advocacy Center, October 2003.
<http://www.thehousingcenter.org/main.htm>
2. Foreclosure Growth in Ohio, Policy Matters, July 2006.
<http://www.policymattersohio.org/>
3. Home Insecurity 2004: Foreclosure Growth in Ohio, Policy Matters, August 2004. <http://www.policymattersohio.org/>
4. Building a New Framework for Community Development in Weak Market Cities, Paul C Brophy & Kim Burnett, April 2003.
5. Cleveland Mortgage Bulletin, Living In Cleveland Center, 2006.
<http://livingincleveland.nhlink.net/>

Figure I

**ANTI-PREDATORY ACTIVITIES
FUNDED BY THE DEPT. OF COMMUNITY DEVELOPMENT
2000-2006**

Agency Name	Program Type	Funding Source	Total Amount	Activity Description
Consumer Affairs	Consumer Affairs Staff, Salary, and Fringe Benefits	HOME	\$150,800.	Funding for administrative support for predatory lending support, programs and activities.
Community Housing Solutions aka Lutheran Housing Corporation	Pre-purchase, Anti-Predatory and Foreclosure counseling and Tool Loan Program	CDBG/HOME	\$903,350.	The agency provides homeownership education to Cleveland residents and prospective Cleveland residents regarding awareness and avoidance of predatory lending practices to purchase or refinance a home, as well as foreclosure assistance. In addition, the agency provides tools to residents to assist in home repairs through the Tool Loan program.
Consumer Credit Counseling Service of Northeastern Ohio	Anti-Predatory Lending/Foreclosure Prevention	HOME	\$78,250.	The agency provides homeownership education to Cleveland residents and prospective Cleveland residents regarding awareness and avoidance of predatory lending practices to purchase or refinance a home, as well as foreclosure assistance.
Consumer Protection Association	Anti-Predatory Lending/Foreclosure Prevention	HOME	\$78,250.	The agency provides homeownership education to Cleveland residents and prospective Cleveland residents regarding awareness and avoidance of predatory lending practices to purchase or refinance a home, as well as foreclosure assistance.
DAR Public Relations	Public Relations Agency	HOME	\$100,000.	Advertising agency awarded a contract by Consumer Affairs Department to inform the public about predatory lending practices and activities.
Housing Advocates, Inc.	Homeownership Assistance	CDBG (NDA-Ward 5 & Ward 15)	\$175,000.	The program educates the community about unfair housing laws, consumer frauds, predatory lending, and other housing related fields.
Housing Advocates, Inc.	Homeownership Assistance	CDBG/HOME	\$1,089,548.	<p>The program will educate Cleveland residents about predatory lending and various loans that require homeowners to use their homes as collateral. In addition, the program will have available two attorneys to review contracts and documents related to the loans that utilize a resident's home as collateral for the loan or home improvement services. Program services are limited to owner occupied residences.</p> <p>The program through a subcontractor will monitor the lending practices of financial institutions and map out patterns of lending in the area that illustrates how the credit needs of the community are being met.</p>

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2000-2006**

Living in Cleveland Center	Home Buyers Assistance Program	CDBG	\$666,900.	The agency provides home buyers assistance through marketing activities. Cleveland <u>Mortgage Bulletin</u> - a summary of specialized mortgage loan programs offered by area lenders. <u>Trade Shows Marketing</u> - market and distributes home buyer/ homeownership materials at various trade shows through out the City of Cleveland. <u>Website</u> - agency maintain site that contains various marketing and homebuyer assistance information including: Cleveland Mortgage Bulletin, specific neighborhood profiles, virtual neighborhood tours, upcoming housing events, etc. <u>Neighborhood Marketing</u> - Produce and distribute promotional brochure for each City of Cleveland neighborhood.
Neighborhood Housing Association	Housing Counseling Program/Predatory Lending Program	HOME	\$78,250.	The agency provides homeownership education to Cleveland residents and prospective Cleveland residents regarding awareness and avoidance of predatory lending practices to purchase or refinance a home, as well as foreclosure assistance.
Neighborhood Housing Services	Housing Services Program- Admin. only	CDBG	\$196,900.	Administration of a housing rehabilitation and homeownership program including home rehabilitation loan program, pre-purchase, post-purchase, and foreclosure counseling.
Neighborhood Housing Services	Housing Rehabilitation Loan Program	CDGB	\$663,400.	Housing loan rehabilitation program for exterior home improvement offering down payment and closing cost assistance including pre-purchase and post closing counseling and foreclosure prevention counseling.
Spanish American Committee	Housing Counseling Program	CDBG	\$75,000.	Housing Counseling Program that provides clients with housing services including home buying, mortgage default & delinquency, tenant counseling, and consumer education services.
		TOTAL	\$4,255,648.	

Figure 2

**Department of Community Development
Comparison of HUD Budgets
2002-2006**

(000's omitted)

PROGRAM	2002 BUDGET	2003 BUDGET	2004 BUDGET	2005 BUDGET	2006 ACTUAL	CHANGE 2005-2006	CHANGE 2002-2006
CDBG	31,153	29,532	29,027	27,429	24,565	-2,864 (-10.4%)	-6,588 (-21.1%)
HOME	8,925	7,073	7,624	6,892	6,411	-481 (-7.0%)	-2,514 (-28.2%)