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AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Fred Blackwell
Assistant City Administrator

SUBJECT: Quarterly Report on Foreclosure Issues

DATE: June 27, 2013

City Administrator
Approval

Deanna Santana

Fred Blackwell

Date

7/18/13

COUNCIL DISTRICT: City-wide

RECOMMENDATION

Staff recommends that the Committee accept this quarterly informational report:

Quarterly Tracking Report on Housing Foreclosure and Outcome Data
from Related City Programs.

BACKGROUND

This report responds to the standing request of the Community and Economic Development Committee for a quarterly report tracking housing foreclosure data and outcomes from City of Oakland programs designed to help address problems caused by foreclosures.

ANALYSIS

I. RESIDENTIAL FORECLOSURE DATA & TRENDS

National information on foreclosure issues shows the following trends in many urban communities:

1. Significant decrease in foreclosure activities.¹ But recent information indicates an increase in the filing of Notices of Default in Oakland.
2. Sale prices are up and availability of houses for sale is down.

¹ RealtyTrac, U.S. Foreclosure Starts Fall to Six-Year Low in January, 2/14/13. www.realtytrac.com.

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3. The prior increase in short sales² has now declined in Oakland, which appears to be primarily due to completion activities from the National Mortgage Settlement Agreement.
4. Increase in investors purchasing foreclosed properties.³

National Mortgage Settlement Agreement

Regarding the National Mortgage Settlement Agreement negotiated with five (5) major banks: Ally, Bank of America, Citibank, JP Morgan Chase, and Wells Fargo, according to the latest Monitor's report, "there continue to be issues with the loan modification process, single point of contact, and customer records."⁴ The Monitor is continuing to assess servicer performance.

Fair Housing Settlement Agreement with Wells Fargo, Including Oakland

HUD, the National Fair Housing Alliance and other fair housing groups recently entered into a settlement agreement with Wells Fargo Bank regarding fair housing and other claims. Under the agreement, Wells Fargo has committed to invest a total of \$39 million in 45 communities across the country through various programs to support home ownership, neighborhood stabilization, property rehabilitation and housing development. \$27 million of the agreement will be used to support neighborhoods in 19 areas, including Oakland. The National Fair Housing Alliance will be administering the funds and City staff will be in discussion with NFHA regarding the funds for Oakland.

Oakland Data

A. Post-National Mortgage Settlement Agreement—Increasing Notice of Default Filings in Quarter

The prior quarterly report included information about the significant decline in foreclosure activities. However, the number of new Notice of Defaults (NOD) filed in April and May 2013 (112 and 109 filings) was at similar levels from November and December 2012 (112 and 109 filings), right before the decline occurred. The NODs in January and February 2013 were respectively 60 and 62.

More information, including foreclosure activities by specific major lenders is available at ***Attachment A.***

² New York Times, Despite Aid, Borrowers Still Face Foreclosure, 2/21/13.

³ SF Chronicle, Foreclosures Drop in Bay Area, California, 1/23/13. When Investors Buy Up The Neighborhood: Preventing Investor Ownership from Causing Neighborhood Decline, Policy Link, April 2010.

⁴ Office of Mortgage Settlement Oversight, Summary of Compliance: A Report from the Monitor of the National Mortgage Settlement Agreement, June 19, 2013.

B. Changed Profile of Oakland Homeowners in Foreclosure—Current Impact on Long-time Residents

The profile of current Oakland homeowners in foreclosure crisis has changed dramatically in the past several years. At the height of the crisis, around 2008, the majority of Oakland homeowners in foreclosure owned their homes for less than 2 years. Currently, 90% of Oakland families in foreclosure have owned their home for at least 6 years, with over one-third of them owning their homes for more than 10 years. From outreach surveys, the majority of families in foreclosure have school-aged children. There is a heightened impact to neighborhood stabilization and public safety if these families lose their homes.

C. Decrease in Distressed Property Sales and Increase in Non-Distressed Market Sales

Similar to national and statewide trends, the sale of distressed properties in Oakland (foreclosure sales, short sales, third-party flips after auction purchase) are down (45% decrease from last year) and non-distressed property sales have increased (58%). In Oakland, overall residential housing sales have decreased about 7%.

Oakland Sales Trends

Period	Reg. Market Sales		Off-Market/Distressed		All Sales	
	Qtr	Avg/Mo	Qtr	Avg/Mo	Qtr	Avg/Mo
2012 Q1	280	93	685	228	965	322
Q2	514	171	861	287	1375	458
Q3	554	185	748	249	1302	434
Q4	668	223	688	229	1356	452
2013 Q1	556	185	533	178	1089	363
April		265		187		452
May		270		158		428
Change since May 2012:		58%		-45%		-7%

D. Decreasing Short Sale⁵ Activities in Oakland

The prior report noted that the rate of short sales in Oakland had significantly increased with a 35% increase from 2011 to 2012, similar to national trends. However, completing activities

⁵ Short sales are when a property is sold and the lender agrees to accept less money than is actually owed. In a short sale, the homeowner does not receive any proceeds from the sale.

from the National Mortgage Settlement Agreement appears to have resulted in a recent decline in short sales, which peaked in the last quarter of 2012, but dropped 32% in the first quarter of 2013. There were 80 short sales in May, 20% fewer than in May of 2012.

In addition, investors have flipped short sale purchases 3.5 times more in this quarter than last year.

Oakland Short Sales

Period	w/NOD in last 180 days		All	
	Qtr	Avg/Mo	Qtr	Avg/Mo
2012 Q1	95	32	235	78
Q2	120	40	301	100
Q3	159	53	342	114
Q4	116	39	341	114
2013 Q1	73	24	231	77
April		22		90
May		18		80
Change since May 2012:		-69%		-20%

E. Drastic Drop in Auction Sales in Oakland

There continues to be a significant decline of Oakland properties sold at trustee sale auctions, as well as properties completing foreclosure, Real Estate Owned (REO).

Auction Outcomes		
Quarter	REO%	Total Auctions
Q1 2012	70%	373 (avg 124/mo)
Q2 2012	61%	240 (80/mo)
Q3 2012	56%	264 (88/mo)
Q4 2012	53%	163 (54/mo)
Q1 2013	44%	121 (40/mo)
April 2013	31%	32
May 2013	12%	24

H. FORECLOSURE PREVENTION & MITIGATION PROGRAM STATUS

On October 16, 2012, Council approved funds for new and expanded activities to prevent and mitigate foreclosures, including the following:

- Direct outreach to homeowners with a NOD and tenants living in NOD properties.
- Hotline services for tenants and homeowners in distress to connect to appropriate services.
- Housing counseling and legal services.
- City escalation team to work with Bank escalation teams.
- ROOT loan fund program to preserve homeownership for qualified distressed families.
- Reporting of violations of National Mortgage Settlement Agreement or the new State Homeowner Bill of Rights Act to the State Monitor or Attorney General’s office.

Several of these programs required a start-up period before providing direct services. The outreach workers began their door to door outreach services in mid-January. CHDC’s housing counseling services in Oakland began in March. The below chart provides a summary of year to date activities.

Status	Outreach (Allen Temple, OCCUR, Family Bridges, MLK FC, CJJC)	Homeowner Hotline (HERA)	Housing Counseling (CHDC since March & Unity Council)	Homeowner Legal Services (HERA)	Tenant Hotline (CJJC)	Tenant Counseling (CJJC)	Tenant Legal Services (Centro Legal & EBCLC)
Oakland Households Reached or Served	2384 attempts 510 successful contacts	29	Total: 49 36 CHDC 13 Unity Council	135	111	84	Total: 110 74 EBCLC 36 Centro
Outcomes	40 homeowners contacted services 28 tenants contacted services	29 homeowners served by direct services (HERA or CHDC)	<u>CHDC</u> 8 referred to ROOT 6 in process for loan mod 14 other pending cases 2 referred to legal services 3 brief counseling	2 loan mod completed 1 other help keeping home 5 loan mods pending 6 other pending cases to save home 99 brief service or counseling 22 referred to ROOT or CHDC	Legal services referral: 27 Brief counseling: 46 Case management: 38	Stopped eviction: 11 Habitability or rent issues addressed: 22 Cash for keys: 4 Pending: 16 Other brief counseling: 31	<u>EBCLC</u> Stopped eviction: 7 Habitability issues addressed: 1 Cash for keys: 2 Brief service: 49 Pending: 1 <u>Centro</u> Habitability addressed and/or rent increase rescinded: 10 Negotiated settlement: 4 Provided single point of contact: 1 Brief service: 16

The ROOT Loan Fund Program

The ROOT program, administered by Community Housing Development Corporation, an affordable housing nonprofit agency, preserves homeownership for qualified homeowners by purchasing their properties at current market value and reselling them back to the homeowner.

We are in negotiations to purchase 2 properties from Wells Fargo and Bank of America to preserve homeownership for long-time Oakland homeowners (51 and 38 years of ownership). One additional family passed the underwriting review and two others are in the underwriting process. In addition, there are 23 Oakland households who have expressed interest in the ROOT program but need to go through a loan modification process first or complete the application process. Eight other households were processed for ROOT but deemed ineligible or declined to participate. The Foreclosure Prevention outreach workers are engaging in targeted outreach for the ROOT program to NOD owner occupants and REO former owner occupants.

Jobs for Oakland Residents

In addition to staff currently employed with the funded organizations, the outreach organizations employed 8 employees to conduct street outreach on a part-time basis, all of whom are Oakland residents.

Provision of Technical Assistance for Other Communities

There is continuing interest from other communities regarding the City's foreclosure prevention and mitigation plan and staff has provided information and/or assistance to the following communities this quarter: Boston, San Francisco, and Seattle. The ROOT program was also selected to be featured in a Wall Street Journal article.

III. FORECLOSED PROPERTIES PROGRAM STATUS

The following is a quarterly and year-to-date summary of performance outcomes from the City's Foreclosed and Defaulted Properties Registration, Inspection, and Maintenance Programs. Specific information, including performance by major lenders is provided in *Attachment A*.

Time Period	Registrations	Inspections	Charges Collected
4/1/13-6/30/13	234	308	\$302,910 total • \$54,528 reg fees • \$248,382 penalties
FY to date	1,745	949	\$1,061,468 total • \$447,584 reg fees • \$613,884 penalties

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Proactive inspections of 949 foreclosed and defaulted properties have found 49 instances of blight, mostly minor, 94% of which were timely abated.

However, there are 2 current cases that came in through complaints that involve problem occupants in foreclosed properties. Unless the occupants are engaging in criminal activities or nuisance activities that arise to a certain threshold, the City, through OPD or the City Attorney's office, is unable to directly intervene with the occupants. The City's recourse is to escalate communications with the bank property owner and to use blight penalties, if there's the presence of blight, as leverage to compel expedited bank action. Staff has been working with the City Attorney's office to develop new tools to more effectively address these challenging situations.

Use of Liens and City Attorney Collection on Properties Owned by Non-Major Lenders

There has been an increase in the sale of foreclosed properties. In order to protect the City's financial interests on properties owned by non-major lenders, staff has begun issuing liens for outstanding penalties. Non-major lenders own about 11% of the Oakland foreclosed properties inventory. Liens are not generally issued on properties owned by major lenders⁶ as the City has assurance, including from past practice, that outstanding payments will be paid, even after the properties are transferred. In addition, the City Attorney's office will be issuing demand letters to collect outstanding payments.

Provision of Technical Assistance to Other Communities

There has been interest from other communities regarding the City's foreclosed and defaulted properties program and staff has provided information and/or assistance to the following jurisdictions this quarter: presentation at the national Green and Healthy Homes convening with Atlanta, Baltimore, Buffalo, Chicago, Cleveland, Denver, Detroit, Dubuque, Flint, Jackson, Lansing, Lewiston, New Haven, Newark, Philadelphia, Providence, San Antonio, Salt Lake City, and Staten Island.

IV. STATUS OF INVESTOR OWNED FORECLOSED AND DEFAULTED PROPERTIES PROGRAM

On November, 2013, the Council passed an ordinance requiring the registration, inspection, and maintenance of foreclosed or defaulted properties purchased by investors. Staff has been working on the development of the program, including a new online registration system and a new database system to identify targeted properties for enforcement. It is anticipated that the online registration program will be available in July. Staff will be providing outreach to the real estate community to notify them of the new requirements. In addition, individual notices will be issued on specific properties that are subject to the new requirements with the provision of time to register.

⁶ Bank of America, Chase, Fannie Mae, Freddie Mac, US Bank, and Wells Fargo.

V. DEVELOPMENT OF PROACTIVE PROGRAMS AND POLICY RECOMMENDATIONS

Subsequent to the last quarterly report, staff has continued to work with community partners and national experts to refine the development of new strategies to accomplish the following goals:

1. Preserve homeownership for qualified residents.
2. Provide meaningful access to foreclosed properties for owner-occupant purchasers.
3. Support the disposition of foreclosed properties into affordable and quality rental housing.

The following plan is based upon national best practice programs and innovative new strategies to address the new problems facing Oakland residents, as described above.⁷ In addition, the administration convened a recent meeting with senior officials who oversee the disposition of REO properties for the top six (6) lenders in Oakland⁸ to discuss the below proposal.

City partners, such as the San Francisco Federal Reserve, Enterprise Community Partners, and East Bay Housing Organizations are assisting in raising funds to support the City's goals. The starting place would be to utilize the City funded outreach workers to identify interested and eligible families and connect those families with the appropriate resource. For eligible homeowners in default, housing counseling and legal services would be provided to negotiate loan modifications with lenders. For the more challenging cases, including eligible homeowners in foreclosed properties, the ROOT program would be available. For interested and eligible tenants, we would create a new pipeline for homeownership counseling and resources to purchase either their existing home or a new REO vacant property. For former homeowners and tenants in REO properties where homeownership is not possible and who want to stay, we would create a pipeline for nonprofit or participating private developers to purchase those properties under a long-term lease agreement.

To address the problem of access to housing inventory, we are developing a new direct purchasing arrangement for owner-occupant homebuyers to purchase REO vacant properties. To address the problem of the lack of affordable rental housing and the dearth of Section 8 vouchers, we are exploring the development of a new transitional housing rental subsidy program for eligible families to live in REO properties owned by nonprofit or private developers. Eligibility criteria would include whether the participating family would be able to afford market-rate rents after the transitional housing period. In addition, the program design would include the provision of wrap-around services, including financial counseling, to promote economic self-sufficiency for participating families.

⁷ Research was conducted into best practice strategies in other cities, such as St. Paul Minnesota. Staff also consulted with national and local experts, including Wells Fargo and Chase Banks' Community Development programs, National Community Stabilization Trust, Enterprise Community Partners, LJSC, Alameda County Public Health Department, Urban Strategies Council, ACCE, EBHO, CHDC, Harvard Law School's Technical Assistance Project, Self-Help, Habitat for Humanity, and others.

⁸ Bank of America, Chase, Fannie Mae, Freddie Mac, US Bank, and Wells Fargo.

The following is a summary of the Plan and timeline.

1. Outreach Services to Identify Eligible and Interested Families

- Continue the City's funded outreach services to reach homeowner and tenant families in both defaulted and foreclosed properties and connect families with existing and new resources.
- Action: Return to Council with funding proposal in early Fall.

2. Anti-Displacement: Counseling & Legal Services for Homeowners and Tenants

- Continue the City's funded counseling and legal services, including negotiating loan modifications for homeowners in default.
- Action: Return to Council with funding proposal in early Fall.

3. Preserve Homeownership: ROOT Loan Fund Program for Eligible Homeowners

- Continue supporting ROOT program.
- Action: Return to Council in early Fall with request to receive \$2 million of the California Housing and Finance Agency loan funds, per original program design and prior Council report, for the ROOT program.

4. Acquire Properties in Foreclosure to Promote City Community Development Goals: Pilot Community Buying Program for NOD and REO Properties

- Utilizing City supplied data and criteria, identify properties for different disposition (ROOT, tenant-ownership, continued former owner or tenant rental, new owner-occupant homebuyer, nonprofit developer, private developer); match specific properties with specific buyers; provide quality control and assistance on buyer pricing; negotiate purchase with lenders (pre-First Look or First Look period).
- Develop a Short Sale First-Look program for NOD properties with interested homeowners. Utilize an auction strategy if short sale is not available.
- Similar to other programs operated in other jurisdictions, program administration funding would be from transactional fees paid by buyer, i.e. \$1,000 per property.
- The City would provide access to City Rehabilitation funds for qualified home-buyers.
- Action: City RFQ to select Program Administrator. City RFQ to select nonprofit and for-profit developer participants. July—August 2013. Return to Council in early Fall with an update.
- Target of 150 homes annually:

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- 50 nonprofit developer purchases for rehabilitation and subsequent ownership housing.
 - 50 direct purchases by owner-occupant buyers.
 - 50 private developer/rent subsidy participant purchases.
5. **Community Buying Program—Transforming Vacant Foreclosed Property to New Homeownership Opportunities Through Direct Consumer Purchase**
- Develop pipeline of pre-qualified owner-occupant purchasers, working with homeownership counseling groups including Unity Council, EBALDC, NID, CHDC, Habitat for Humanity.
 - Enterprise Community Partners will be issuing a RFP that may support seed funds for a qualified nonprofit agency to match specific properties with specific buyers, as well as connect purchasers with real estate, lending, and rehabilitation resources.
 - Action: Return to Council in early Fall with an update.
6. **Housing & Economic Success Rent Subsidy Program**
- Develop pilot program to provide rental housing support for 50-100 families who currently cannot afford market-rate rental housing and are working to achieve economic self-sufficiency, such as current enrollment in job training or educational programs.
 - A potential partner would be the Oakland Housing Authority. In addition, Enterprise Community Partners will be issuing a RFP that may support seed funds for a nonprofit agency partner to provide financial counseling and wrap-around services to participating families.
 - Action: Return to Council in early Fall with proposal for the use of City seed funds.

Development of Policy Recommendations for Council Consideration

There may be policy recommendations for Council action to support the alternative disposition goals of home preservation, new homeownership opportunities, and quality and affordable rental housing. Staff will be convening meetings with different stakeholder groups to develop any policy recommendations for Committee consideration, including the following: ACCE, Alameda County Public Health Department, CJJC, East Bay Rental Housing Association, Jobs and Housing Coalition, OCO, Oakland Realtors Association, Urban Strategies Council, and others.

For questions regarding this report, please contact Margaretta Lin, Departments of Housing and Community Development and Planning and Building, at 510-238-6314.

Respectfully submitted,



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***Attachment A: Foreclosure Data
& Properties Status***

ATTACHMENT A

Time Period	Bank	Foreclosure Events			Registrations						Property Conditions			
		Recorded NOD/REO Filings			Notice of Default			Foreclosed / REO			Inspection		Abatement	
		NOD	Trustee Sale	REO	Total NOD	Occupied	Vacant	Total REO	Occupied	Vacant	# Inspected	Violations	Timely Abatement	Penalties
4/1/13-6/31/13														
	BofA	17	7	1	14	13	1	3	1	2	126	5		
	Chase	39	11	2	9	6	3	2	0	2	31	2		
	Fannie	7	1			0		5	5		63	3		
	Freddie	0	0	0	1	1		9	4	5	0	0		
	US Bank	9	3			0			0		3	0		
	Wells	56	5	2	70	66	4	3	1	2	7	0		
	Ocwen	15	3		2	0	2		0		2	0		
	Others	110	31	7	76	66	10	35	27	8	76	0		
	Total	253	61	12	172	152	20	57	38	19	308	10	0	0
F-Y.to Date														
	BofA	146	96	46	223	193	30	65	40	25	153	13	6	1
	Chase	270	89	47	310	284	26	16	4	12	49	6	4	0
	Fannie	17	11	9	11	6	5	291	181	110	85	9	4	2
	Freddie	0	0	0	7	5	2	76	39	37	1	1	1	0
	US Bank	59	38	10	94	80	14	17	13	4	9	4	3	1
	Wells	352	110	49	606	584	22	56	25	31	609	7	7	0
	Ocwen	51	24	6	6	1	5	53	48	5	4	1	1	0
	Others	651	369	193	343	306	37	136	88	48	165	12	12	0
	Total	1546	737	360	1600	1459	141	710	438	272	1075	53	38	4