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2013 OCT 10 PM 2:46

# AGENDA REPORT

**TO:** DEANNA J. SANTANA  
CITY ADMENISTRATOR

**FROM:** Fred Blackwell

**SUBJECT:** Quarterly Report on Foreclosure Issues

**DATE:** September 30, 2013

City Administrator  
Approval

*Deanna Santana*

Date

*10-9-13*

**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.<sup>1</sup>
2. Sale prices are up and availability of houses for sale is down.

<sup>1</sup> RealtyTrac, Overall US Foreclosure Activity Drops to 6-Year Low 5/7/13. [www.realtytrac.com](http://www.realtytrac.com).

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3. The prior increase in short sales<sup>2</sup> has now declined in Oakland, which appears to be primarily due to completion activities from the National Mortgage Settlement Agreement.
4. A slow-down of investors purchasing foreclosed properties in hot housing markets like Oakland's.<sup>3</sup>

### ***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."<sup>4</sup> The Monitor is continuing to assess servicer performance.

### ***Fair Housing Settlement Agreement with Wells Fargo, Including Oakland***

Last quarter we reported on a settlement agreement between HUD, the National Fair Housing Alliance and other fair housing groups with Wells Fargo Bank regarding fair housing and other claims. Under the \$39 million agreement, Wells Fargo committed to invest \$27 million to support neighborhoods in 19 areas, including Oakland. Pursuant to City staff communications with the National Fair Housing Alliance (NFHA), fund administrator, NFHA will consider a proposal from the City regarding the use of \$1.3 million dedicated to Oakland. Staff is developing an overall plan regarding the next round of foreclosure recovery grants to include both the use of City and settlement agreement funds for the November 12<sup>th</sup> CED meeting.

### ***Oakland Data***

#### **A. Post-National Mortgage Settlement Agreement—Decreasing Notice of Default Filings in Quarter**

Filings of Notice of Defaults (NOD) are in fluctuation in Oakland. Last quarter's filings of new NODs (112, 109, and 83) had increased to the levels from November and December 2012 (112 and 109 filings), right before the decline occurred. However, for this quarter NODs are back down from the 102/month average spike in Q2, to 67 in July and 81 in August. This is still slightly higher than the low from the beginning of the year (60/Jan and 62/Feb) but much lower than average filings in 2012.

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

<sup>3</sup> USA Today, As Prices Rise, Rental Home Investors Seek New Markets, January 22, 2013

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

**Oakland NOD Filings**

Period	Qtr	Avg/Mo
2012 Q1		609
Q2		613
Q3		494
Q4		410
2013 Q1		224
Q2		305
July		67
August		81

Aug  
2012: 173

June: 85

Change in since last Qtr: -27%

Change Aug 2012 - Aug 2013: -53%

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

**B. Impact on Vulnerable Oakland Homeowners and Steep Rent Increases**

As reported last quarter, the profile of current Oakland homeowners in foreclosure crisis has changed dramatically in the past several 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. Most of the clients in the ROOT program have owned their homes for decades, including over 50 years. From outreach surveys, the majority of families in foreclosure have school-aged children.

Oakland’s foreclosure crisis, which led to home loss for 1 in 14 Oakland households and then to subsequent investor purchases, has contributed to dramatically rising rents. Last quarter, Oakland was the second in the nation for the highest level of rent increases—6.9%.<sup>5</sup> The 6.9% increase was in addition to the 11.5% increase in rents from 2011 to 2012.

**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 (44% decrease from last year) and non-distressed property sales have increased (58%). Non-distressed home sales continue to increase, up 10.5% from last quarter (325 from 295) and 57% from last year.

<sup>5</sup> Wall Street Journal, Bay Area Rally Sends Rents Soaring, July 16, 2013.

In Oakland, overall residential housing sales is now at the same level as last year.

**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
Q2	885	295	518	173	1403	468
July		330		156		486
August		322		144		466
Change from last Qtr		+11%		-13%		0%
Change Aug 2012- Aug 2013:		+57%		-44%		0%

**D. Decreasing Short Sale<sup>6</sup> Activities in Oakland**

Last quarter saw the beginning of a decline in short sale activities, contrary to a 35% increase from 2011 to 2012 (35%). This quarter's numbers show a leveling off of short sales with fewer number of short sales occurring with homes with recent NODs and more with homes that had old NODs or no NODs issued.

Investors are continuing to flip short sale purchases, but at a reduced rate given that there have been fewer total short sales in recent months. A stable average of 7 flips per month (21-22 per quarter) has been typical so far this year, but this dropped to only 3 in September.

<sup>6</sup> 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.

**Oakland Short Sale Trends**

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
Q2	54	18	260	87
July		17		74
August		8		75
Change since last Qtr:		-56%		-13%
Change since August 2012:		-85%		-38%

**E. Drastic Drop in Auction Sales in Oakland**

This quarter saw the continuing decline of the numbers of properties going to trustee sale auction. Last quarter's increase of investor purchases at auction (74% of properties) significantly declined this quarter with increasing numbers of properties reverting to the bank, Real Estate Owned (REO) (47% from 26%).

Auction Outcomes	All Auctions		Auction to REO%
	Qtr	Avg/Mo	
2012 Q1	405	135	71%
Q2	278	93	62%
Q3	266	89	57%
Q4	231	77	60%
<b>TOTAL 2012</b>	<b>1180</b>		<b>63%</b>
2013 Q1	161	54	55%
Q2	151	50	26%
July		47	40%
August		36	56%
<b>TOTAL 2013 Year to Date</b>	<b>395</b>		<b>42%</b>

**II. 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, CJC) through August	Homeowner Hotline (HERA through August)	Housing Counseling (CHDC since March & Unity Council) through Sept.	Homeowner Legal Services (HERA through August)	Tenant Hotline (CJC through June 2013)	Tenant Counseling (CJC through June 2013)	Tenant Legal Services (Centro Legal & EBCLC through June 2013)
<b>HHs Reached or Served</b>	3480 attempts 699 reached	29	Total: 58 45 CHDC 13 Unity Council	174	111	84	Total: 118  74 EBCLC 44 Centro
<b>Outcomes</b>	330 tenants referred to services  339 homeowners referred to services	29 homeowners served by direct services (HERA or CHDC)	<u>CHDC</u> 13 referred to ROOT11 in process for loan mod 14 other pending cases 4 referred to legal services 8 brief counseling	15 loan mod completed 2 other help keeping home 10 loan mods pending 2 other pending cases to save home 120 brief legal service or counseling 25 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 addressed: 1 Cash for keys: 2 Brief service: 49 Pending: 1 <u>Centro</u> Habitability addressed or rent increase rescinded: 11 Negotiated settlement: 5 Provided single point of contact: 1 Brief service: 22

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The following are case study profiles of Oakland families assisted through these services:

***Preserving Homeownership for a Oakland Household of Nine***

A key accomplishment of HERA's legal counseling is thwarting scams that attempt to extract money from an at-risk homeowner, primarily in low- and moderate-income communities, with false promises of being able to save the home. California is ground zero for these kinds of scams.<sup>7</sup> Typical scams seen by HERA result in homeowners having paid anywhere from \$1,000 to \$30,000, frequently to attorneys or people who claim they are attorneys. HERA's legal advice helps homeowners identify whether they are dealing with a scam and, in some cases, HERA is able to help them retrieve money they have paid or HERA's advice stops them from making further payments. HERA's intervention preserves or reclaims critical household resources that homeowners may need to move to another location if unable to hang onto their home.

Some of the homeowners whom HERA has counseled are in a panic because they believe they will have to move from their home as soon as it is sold in foreclosure. HERA explains to them that this is not true, and also explains their post-foreclosure legal rights and timeline, whether they will owe any additional money on the mortgage. For seniors and for immigrant families, HERA's ability to bottom-line their legal rights is particularly valuable, as they are more vulnerable to abuses.

Some of this counseling results in households knowing what their target income is for purposes of qualifying for a modification of their mortgage. To achieve that income, they may have to rent out a room (to strangers or to family), or seek additional employment, which takes time and may mean that they do not contact HERA again for a few months.

For other HERA clients, when staff determines they are able to have a reasonable shot at obtaining a modification, HERA assists them through every step of the process, which can be lengthy, especially if the homeowner has a fluctuation in income during the course of HERA's representation. Most households served by HERA in this way consist of several family members. In a city with the fastest rising rents in the state, being able to keep the home and mortgage is frequently far cheaper than going into the private market as a renter.

An example of a HERA foreclosure prevention success story is an Oakland household of nine who had a sale date set on their home in just a couple days at the time they came to HERA for help. HERA determined that they could qualify for a modification, got the sale date postponed, and obtained a trial modification plan which HERA also ensured was converted into a final modification. This process took eight months from start to finish and is an excellent example of the potential harm risked when a homeowner does not know what to do and is not getting

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<sup>7</sup> See Financial Crimes Enforcement Report, 2012 at [http://www.fincen.gov/news\\_room/nr/files/MLFUpdateQ22012\\_FINAL508.pdf](http://www.fincen.gov/news_room/nr/files/MLFUpdateQ22012_FINAL508.pdf)

reliable advice about what he has to turn in, what he qualifies for, and what the steps are. This family of nine people now has an affordable mortgage and home they can hold onto for the future.

### ***Preventing Tenant Displacement***

The following case study is from a client that Centro Legal served.

The Tenant had been living at her house for about four years when the property went through foreclosure. The tenant never received information regarding the foreclosure, or information regarding where to make rental payments. In addition, repairs that were needed remained unaddressed during the foreclosure process. Months after the foreclosure, the bank began eviction proceedings against her. With an unlawful detainer (eviction) pending, and during settlement negotiations with the bank, a man who identified himself as "John" came to her house claiming to have purchased the property and ordering her and her daughter to move out. She communicated this to the bank's representative who told her that the property had not been sold.

Nonetheless, John continued coming to Tenant's house and served her with a 3-Day Notice to Pay Rent or Quit. When he came to her house, he threatened her, harassed her, and called her names. When she talked to the bank about John's visit and behavior, the bank advised her to ignore him, saying the property hadn't been sold.

After a two week period of silence from the bank, Tenant went to court and discovered that the property had indeed been sold, but was not told the identity of the new owner. The following day, John served her with a second 3-Day Notice to Pay Rent or Quit. Tenant immediately sought the help of a local non-profit and scheduled an inspection of the property with Oakland Code Compliance. Unfortunately, John filed an unlawful detainer complaint against her. Tenant tried to respond to the notice and file an answer, but was misinformed of the legal requirements and missed the deadline.

Tenant came to Centro Legal's office on the day that she received a Sheriff's Notice to Vacate, which informed her that she had to vacate the property within five days. Centro Legal provided Tenant with legal representation and was able to successfully have the case dismissed. Centro Legal also investigated the ownership of the property and was able to confirm that John owned the property. Centro Legal then negotiated a move-out agreement with John, wherein he agreed to waive all rent owed and stay away from the house until Tenant moved. Ultimately, after having gone through two unlawful detainer actions, Tenant was able to get one year's worth of rent waived. More importantly, she was able to locate a habitable residence with her daughter and was no longer on the receiving end of John's threats and harassment.



***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.

Negotiations with Wells Fargo to purchase the long-time home (51 years) of an Oakland family who had been recently foreclosed upon has been successful and are now in the transactional process to sell the property back to the family. Negotiations to purchase two other properties from Wells Fargo and one from Bank of America are also occurring to preserve homeownership for long-time Oakland homeowners. One additional family passed the underwriting review. In addition, there are 40 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. Ten other households were processed for ROOT but deemed ineligible or declined to participate. Alternative assistance is offered to households denied for the ROOT program, such as assistance to get into the pipeline for affordable rental housing. 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 eight employees to conduct street outreach on a part-time basis, all of whom are Oakland residents.

***National Learning Community***

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: Los Angeles, Sacramento, Buffalo, as well as presented Oakland's programs at convenings organized by the San Francisco Federal Reserve. Program staff were also interviewed by the Center for American Progress for their research on foreclosure recovery strategies. In addition, the program is learning from new efforts launched in Cleveland to address the problem of blighted abandoned properties, and is in communication with the Center for Community Progress regarding possible technical assistance in developing new strategies to address abandoned and/or blighted properties in Oakland. Through facilitation from the SF Federal Reserve, the national trade alliance HOPE NOW has helped the City connect with the right officials at servicing agencies where staff did not have a prior relationship.

### 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
7/1/13-9/30/13	235	104	\$356,834.02 total • \$37,818.66 reg fees <sup>8</sup> • \$319,015.66 penalties

Proactive inspections of 98 foreclosed and defaulted properties found three instances of blight, mostly minor, which are currently in the abatement period.<sup>9</sup> In addition, there were eleven complaints of blighted defaulted or foreclosed properties this quarter. Information in *Attachment A* provides violation break-downs by specific lenders.

Staff are dealing with increasing numbers of illegal occupants in defaulted or foreclosed properties who are creating blight or engaged in nuisance activities, with four of these active cases. Coordination has been enhanced between Code Enforcement and Oakland Police Department in order to more effectively resolve these problems.

### IV. STATUS OF INVESTOR OWNED FORECLOSED AND DEFAULTED PROPERTIES PROGRAM

On November, 2013, the City Council passed an ordinance requiring the registration, inspection, and maintenance of foreclosed or defaulted properties purchased by investors. The new program, including a new online registration portal, launched in early August. Notices have been issued to 50 properties for registration with registrations due between early October and November and inspections to be scheduled by early November to early December. As of this date, six of the 50 noticed properties have registered.

### V. DEVELOPMENT OF PROACTIVE PROGRAMS AND POLICY RECOMMENDATIONS

As provided in past reports, staff has been working with community partners and national experts to develop new strategies and identify new resources to accomplish the following goals:

1. Preserve homeownership for qualified residents.

<sup>8</sup> An additional \$4,817.34 in Rec/Tech restricted fees were collected.

<sup>9</sup> Proactive inspections this quarter found 14 blighted properties in the default stage, with mostly minor violations. As provided under the City's ordinance, the lender is being pursued for abatement in only 3 of these cases due to potential abandonment.

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 new foreclosure recovery plan is based upon national best practice programs and innovative new strategies to address the new problems facing Oakland residents, as described in last quarter's report.<sup>10</sup> The administration also convened a recent meeting with senior officials who oversee the disposition of REO properties for the top six lenders in Oakland<sup>11</sup> to discuss the new efforts.

In addition to the potential Wells Fargo settlement agreement funds administered by NFHA, Enterprise Community Partners is also helping to fund the City's new efforts.

As provided in the last report, the City issued a Solicitation for Partners to select a Nonprofit Administrator of the Community Buying Program and qualified nonprofit and for profit developers committed to working with the City to achieve its community development and neighborhood stabilization goals. The deadline for responses is October 4<sup>th</sup>. See <http://www2.oaklandnet.com/Government/o/hcd/index.htm#new>

### ***Development of Policy Recommendations for Council Consideration***

There may be policy recommendations for Council action, in a separate future staff report, 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.

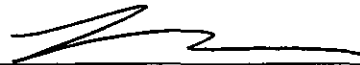
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<sup>10</sup> Research was conducted into best practice strategies in other cities, such as St. Paul Minnesota. Staff also consulted with national and local experts, including Wells Fargo and Chase Banks' Community Development programs, National Community Stabilization Trust, Enterprise Community Partners, LISC, 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.

<sup>11</sup> Bank of America, Chase, Fannie Mae, Freddie Mac, US Bank, and Wells Fargo.

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: Foreclosure Data and Programs

Time Period	Bank*	Foreclosure Events			Registrations						Inspections					
		NOD/REO Filings			Notice of Default			Foreclosed / REO			Inspections			Abatement		
		NOD	Trustee Sale	REO	Total NOD	Occupied	Vacant	Total REO	Occupied	Vacant	Proactive	Complaints	Violations Found**	Pending	Timely	Penalties
<b>Q3/FY to date: July - September 2013</b>																
<b>Major Lenders</b>	BofA	5	3	2	14	10	4	1	1	0	8	1	1			1
	Chase	17	11	3	32	23	9	1	0	1	19	0	1	1	-	-
	Fannie Mae	5	1	1	1	1		7	4	3	3	3	3	1	-	2
	Freddie Mac	0	0	0		0		0	0	0	0	0	0		-	-
	US Bank	10	7	3	4	4		0	0	0	3	0	0	-	-	-
	Wells	34	11	5	31	29	2	3	0	3	16	0	2	2		
<b>Other Lenders</b>	Ocwen	14	3	1	22	22	0	0	0	0	18	0	0	-	-	-
	Nationstar	10	10	8	32	30	2	1	0	1	0	1	1	1	-	-
	Bank of NY	3	3	2	4	4	0	0	0	0	2	1	0	-	-	-
	Deutsche Bk	7	1	0	2	1	1	1	0	1	7	0	0	-	-	-
	One West	11	2	2	1	0	1	0	0	0	2	1	1	-	-	1
	SP Servicing	2	0	0	5	4	1	0	0	0	6	1	1	-	-	1
	Metropolitan	0	0	0	0	0	0	1	0	1	0	1	1	1	-	-
	ING Direct	0	0	0	0	0	0	0	0	0	0	1	1	-	1	-
	Others	72	31	12	65	62	3	7	2	5	14	1	1	1	-	-
	<b>Total</b>	<b>190</b>	<b>53</b>	<b>39</b>	<b>213</b>	<b>190</b>	<b>23</b>	<b>22</b>	<b>7</b>	<b>15</b>	<b>98</b>	<b>11</b>	<b>13</b>	<b>7</b>	<b>1</b>	<b>5</b>

Notes on Methodology:

\*There are often multiple entities involved in the loan for a defaulted or foreclosed property, including the lender or investor/note holder and the servicer that manages the loan payments. Properties are assigned to the primary responsible party based on a combination of information pulled from public records and details provided in the registry.

\*\*There were 13 properties with blight violations this quarter—10 from complaints and 3 from proactive inspections. While proactive inspections this quarter found 14 blighted properties in the default stage, with mostly minor violations, the lender is being pursued for only 3 abatement actions due to City ordinance requirement requiring abandonment by the owner in default to trigger lender involvement.