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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: March 29, 2013

City Administrator
Approval

Date

4/11/13

COUNCIL DISTRICT: City-wide

RECOMMENDATION

Staff recommends that the Committee accepts 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
2. Increase in short sales.²
3. Increase in investors purchasing foreclosed properties.³

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

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.

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The following provides a snapshot of national and state outcomes from the National Mortgage Settlement Agreement negotiated with five (5) major banks: Ally, Bank of America, Citibank, JP Morgan Chase, and Wells Fargo. As highlighted in recent media articles, there is significant concern that the banks are fulfilling Settlement Agreement (SA) obligations through short sales rather than loan modification and other homeownership preservation strategies.⁴ Nationally, short sales constitute 44% while homeownership support⁵ only constitutes 22% of the SA implementation. In California, short sales have constituted 52% and homeownership support 24% of the SA.

National, Program Status as of Dec.31, 2012⁶

Type of Consumer Relief	Ally Bank	Bank of America	Citibank	Chase	Wells	Total
Homeownership Support (Loan mods., principal reduction, interest rate relief)	\$211M 34%	\$4.002B 15%	\$974M 35%	\$2.375B 30%	\$2.056B 49%	\$9.618B 22%
Second Lien Modifications	\$94M 15%	\$9.818B 37%	\$1.384B 50%	\$7M .09%	\$290M 7%	\$11.593B 26%
Short Sales	168 27%	\$11.846B 44%	\$426M 15%	\$5.260B 67%	\$1.805B 43%	\$19.505B 44%
Other	153 24%	\$1.181B 4%	\$7M .25%	\$224M 3%	\$65M 1.9%	\$1.628M 4%
TOTAL COMPLETED	\$626M	\$26.847B	\$2.791B	\$7.866B	\$4.216B	\$42.346B

California, Program Status as of December 31, 2012⁷

Type of Consumer Relief	Ally Bank	Bank of America	Citibank	Chase	Wells	Total
Homeownership Support (Loan mods., principal reduction,	\$51M 71%	\$1.826B 17%	\$264M 33%	\$1.01B 32%	\$827M 42%	\$3.98B 24%

⁴ SF Chronicle, 5 Big Banks Mortgage Relief Progress, 11/19/12. LA Times, Most Aid From Mortgage Settlement in State Going to Short Sales, 11/19/12.

⁵ Since it is unclear if modification of second liens, without first lien modification, results in homeownership preservation, it is listed separately rather than included as part of the Homeownership Support category. There may be instances when modification of second liens would be sufficient for homeownership preservation.

⁶ At least \$25 billion was anticipated in homeowner relief funds.

⁷ The California Attorney General negotiated a separate side agreement that provided an additional \$18 billion for California.

Type of Consumer Relief	Ally Bank	Bank of America	Citibank	Chase	Wells	Total
interest rate relief)						
Second Lien Modification	\$20M 29%	\$3.428B 32%	\$366M 45%	\$4M .1%	\$138M 7%	\$3.956B 23%
Short Sales	0	\$5.477B 51%	\$179M 22%	\$2.152B 67%	\$985M 50%	\$8.793B 52%
Other		\$58M .54%	\$1.5M .2%	\$17M 1%	\$22M 1%	\$111M 1%
TOTAL COMPLETED	\$71M	\$10.789B	\$809M	\$3.192B	\$1.972B	\$16.85B

Oakland data follows these national trends.

A. Decreasing Numbers of Oakland Foreclosure Activities

The rate of foreclosure activities has significantly decreased in Oakland. However, there are still significant numbers of Oakland residents in or at risk for foreclosure. In addition, Corelogic data shows that there are about 20,000 underwater borrowers in Oakland. Staff is working on accessing data on how many of these households are delinquent.

- **Notice of Default:** decreased 64.1% since the prior year.⁸
 - However, there are over 1,000 Oakland households with a current NOD.⁹
 - In the past quarter, 197 new NODs were filed.
- **Sale to Third Parties Via Trustee Sales:** decreased 33% since the prior year.¹⁰
 - However, there were 1,722 scheduled trustee sales in the months of December, January and February.
 - There were 423 NOD properties sold to third parties through trustee sales in 2012.
- **Back to Bank, REO:** decreased 71.11% since the prior year.
 - However, there are 815 current REO properties in Oakland.¹¹
 - The City's registry shows that about 42% of the REO properties are vacant; 31% are tenant occupied; and 27% are occupied by the prior owner.

⁸ ForeclosureRadar <http://www.foreclosureradar.com/california/alameda-county/oakland-foreclosures>.

⁹ ForeclosureRadar shows that there are 1,179 properties with a NOD. *Id.* The City's registry has 1,072 NODs registered, but this figure is an undercount as lenders have not registered 100% of their properties.

¹⁰ *Id.*

¹¹ *Id.* The City's registry has 436 REOs registered, but this figure is an undercount as lenders have not registered 100% of their properties.

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

B. Increasing Short Sale¹² Activities in Oakland

The rate of short sales in Oakland has significantly increased with a 35% increase from 2011 to 2012.

Year	# of Short Sales Total
2011	598
2012	804
% increase from 2011 to 2012	35%

For many homeowners, short sales may be the best available option. However, recent reports have indicated instances when some homeowners feel compelled into short sales without the opportunity to explore other options.¹³ For example, a recent statewide survey conducted by the California Reinvestment Coalition of 84 housing counseling or legal service agencies, including about 8 providers for Oakland, found that over 30% of survey respondents believed that there has been pressure on homeowners to do short sales, at least “sometimes.”¹⁴

C. Investor Purchase of Foreclosed Properties

Recent research shows that from 2007 to 2011, investors purchased 65 to 88% of Oakland’s residential, 1-4 unit, foreclosed properties. About 93% of these properties are in Oakland’s low-to-moderate income neighborhoods. See **Attachment B**.

In a recent Urban Strategies Council report¹⁵ and at Council meetings, Oakland residents have complained about their inability to purchase these properties by being out-bid by investors. In addition, there exists potential impact to the Oakland housing market when investors dispose of their properties in Oakland after their investment holding period, anticipated to be in five (5) to seven (7) years.

¹² 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.

¹³ Oakland Reveals the Impact of Homeowners Steered into Short Sales, ACCE Home Defenders League and East Bay Move On, March 8, 2013, Race-Talk Blog by the Kirwan Institute for the Study of Race and Ethnicity, Ohio State University.

¹⁴ Chasm Between Words and Deeds IX: Bank Violations Hurt Hardest Hit Communities, California Reinvestment Coalition, April 2013.

¹⁵ Who Owns Your Neighborhood? The Role of Investors in Post-Foreclosure Oakland, Urban Strategies Council, June 2012.

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.

Status	Outreach (Allen Temple, OCCUR, Family Bridges, MLK FC, CJC)	Homeowner Hotline (HERA)	Housing Counseling (CHDC since March & Unity Council)	Homeowner Legal Services (HERA)	Tenant Hotline (CJC)	Tenant Counseling (CJC)	Tenant Legal Services (Centro Legal & EBCLC)
Oakland Households Reached or Served	774 attempts 158 successful contacts	17	Total: 23 10 CHDC 13 Unity Council	76	22	19	Total: 51 41 EBCLC 10 Centro
Outcomes	23 homeowners contacted services 22 tenants contacted services	17 homeowners served by direct services (HERA or CHDC)	CHDC 3 referred to ROOT 4 in process for loan mod	45 brief service 1 loan mod 19 in process for loan mod 11 referred to ROOT or CHDC counseling	2 legal services referral 13 Case Management 6 Brief Counseling	3 stopped eviction or lock-out 2 Legal services 2 Cash for keys 1 stopped Illegal Rent Increase 5 Repairs Addressed 6 Brief Counseling	EBCLC: 30 brief service 7 stopped evictions 1 won habhability 2 cash for keys Centro: 4 nego settlement 2 rent in rescinded 4 brief service

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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. Wells Fargo and Chase Banks have agreed to participate in the program. Bank of America is evaluating their participation. The City is in communication with Fannie Mae and Freddie Mac and requesting that the Federal Housing Finance Agency (FHFA), which serves as the regulator and conservator for Fannie Mae and Freddie Mac, consider participation in the program. While FHFA has prohibited the use of principal reduction nationally, it recently agreed to engage in principal reductions in California through the Keep Your Home California program and funds.

There are 12 Oakland households who have passed the preliminary review for the ROOT program¹⁶ and property valuation and other needs are being assessed for negotiation with participating lenders. In addition, there are 4 Oakland households who have expressed interest in the ROOT program but need to go through a loan modification process first, which CHDC is conducting for them. 10 Oakland households are working on submitting their applications for the ROOT program and 3 households were reviewed and deemed ineligible, i.e. the property was not their primary residence. Outreach will also be conducted to Oakland homeowners with NODs and loans from participating lenders.

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 has been 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: San Jose, Seattle, and Prince George's County. Mayor Quan also conducted a presentation at a recent US Conference of Mayors meeting regarding the City's programs.

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***.

¹⁶ Preliminary criteria include participating lender, denial of loan modification, hardship, sufficient income, and NSP target areas.

Time Period	Registrations	Inspections	Charges Collected
1/1/13-3/31/13	570	126	\$561,688 total • \$193,688 reg fees • \$368,000 penalties
FY to date	1,511	641	\$822,056 total • \$393,056 reg fees • \$429,000 penalties

Proactive inspections of 641 foreclosed and defaulted properties have found 41 instances of blight, mostly minor, 93% of which were timely abated.

However, there are 3 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 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 lenders¹⁷ as the City has assurance, including from past practice, that outstanding payments will be paid, even after the properties are transferred.

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: Los Angeles, Richmond, and San Diego. Information about the City's program was also included in Mayor Quan's recent presentation to the US Conference of Mayors.

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

¹⁷ Bank of America, Chase, Fannie Mae, Freddie Mac, US Bank, and Wells Fargo.

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.

V. DEVELOPMENT OF PROACTIVE PROGRAMS AND POLICY RECOMMENDATIONS

As discussed in prior CED Committee meetings and requested by Committee members, staff has been conducting due diligence to develop 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.

Expanding First Look Programs & Assistance from National Experts

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. A proposal was developed that built upon best practice strategies and existing systems for the disposition of foreclosed properties.

Preliminary communications occurred with the Oakland Realtors Association and its leadership will be consulted in program development and operations. Staff will also consult with the Jobs and Housing Coalition and other real estate development interests.

The administration convened a recent meeting with senior officials who oversee the disposition of REO properties for the top six (6) lenders in Oakland¹⁸ to discuss the below proposal:

1. Create a pipeline for all REO properties to go through existing First Look programs, especially operated by the National Community Stabilization Trust (NCST)¹⁹ for purchase by:

¹⁸ Bank of America, Chase, Fannie Mae, Freddie Mac, US Bank, and Wells Fargo.

¹⁹ The National Community Stabilization Trust, is a national nonprofit agency with support from HUD, set up to assist communities to weather the foreclosure crisis. The Trust operates a First Look program where participating lenders provide a pre-market opportunity for nonprofit and some for-profit agencies approved by the Trust to purchase foreclosed properties. Some lenders, such as Fannie Mae, operate their own First Look program and include owner-occupant purchasers.

- a. Nonprofits and for profits with socially responsible outcome commitments as vetted by a City of Oakland RFQ, to be developed in collaboration with the National Community Stabilization Trust and major lenders.
- b. Owner-occupant purchasers with down-payment assistance or through housing counseling programs.

Major lenders have expressed openness to and interest in supporting the development of this program. Staff is working with the NCST, collaborative partners and major lenders to develop a new First Look program for Oakland REO properties.

2. For homeowners denied a loan modification, provide information to the City for a **Second Look opportunity for Bank Escalation or City sponsored programs.**

The response from major lenders has been that they cannot share confidential information and provide a list of homeowners denied loan modifications to the City or nonprofit agency. However, if the City approaches them with specific cases, they will connect us with their Escalation offices.

3. **Short Sale purchases to City vetted nonprofits or for-profits with socially responsible outcomes:**
 - a. Resale to existing homeowners, in some agreed upon time period, as homeownership preservation for qualified homeowners through the ROOT program.
 - b. Sale to new owner-occupant purchasers.
 - c. Sale to nonprofits or for-profits, approved by the City's RFQ, who are engaging in resale to owner-occupant purchasers or providing quality and affordable rental housing.

As short sales are initially real estate transactions involving the homeowner, realtors, and a new buyer, the City will need to work with Oakland homeowners and the realtor community in identifying homeowners who are interested in engaging in a short sale that results in either homeownership preservation or resale to a new owner occupant. The lenders would then need to approve the short sale.

4. **Provide City or acceptable nonprofit agency with access to 60 day delinquent borrower information for City-sponsored outreach and housing counseling services.**

The response from major lenders has been that they are unable to share this confidential and proprietary information with the City.

Given the rising numbers of short sales and reports that home preservation options may not be fully considered, the Administration is concerned that Oakland homeowners in distress may not

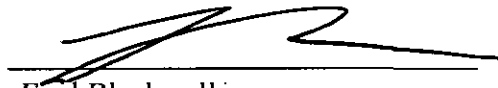
be fully informed about their rights or have access to supportive housing counseling services. Staff has identified a database system that will provide the City with information on delinquent borrowers, Experian, and will be using this data to expand the City's outreach efforts to delinquent borrowers who may not have yet been issued a NOD. An additional \$10,000 will be added to the City's existing contract with HERA to support a public awareness campaign and connect interested delinquent homeowners with City sponsored housing counseling and legal services.

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, CJC, 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 B: Map of Investor-
Owned Foreclosed Properties***

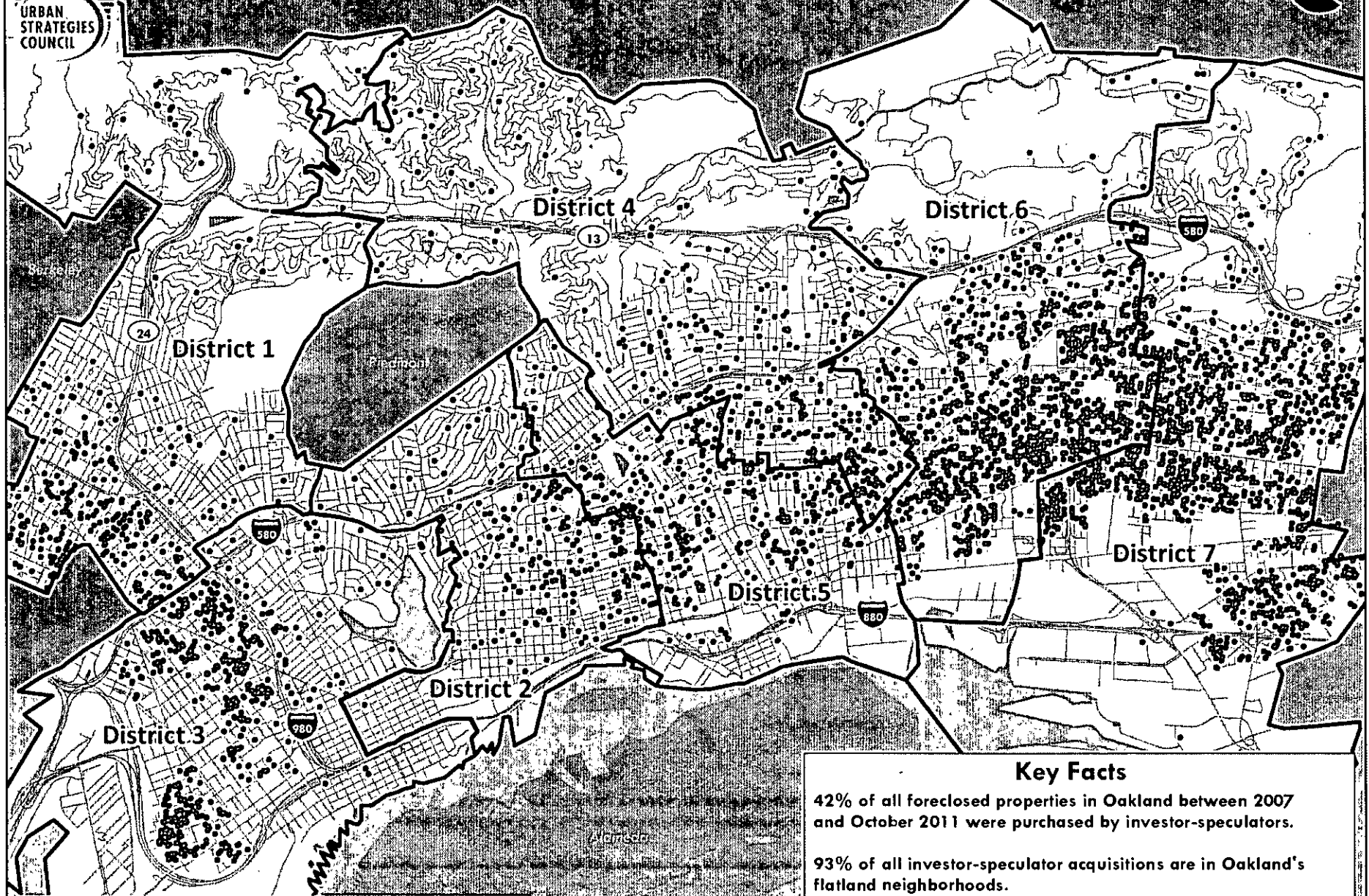
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Attachment A: Foreclosure Data and Programs

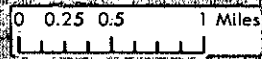
Time Period	Bank	Foreclosure Events			Registrations								Property Conditions			
		Recorded NOD/REO Filings			Notice of Default				Foreclosed / REO				Inspection		Abatement	
		NOD	Trustee Sale	REO	Total NOD	Owner Occupied	Tenant Occupied	Vacant	Total REO	Owner Occupied	Tenant Occupied	Vacant	# Inspected	Violations	Timely Abatement	Penalties
1/1/13--3/31/13																
	BofA	17	12	4	67	45	8	14	26	1	17	8	2	1		
	Chase	43	11	6	141	133	0	8	6	0	2	4				
	Fannie	0	2	2	3	1	0	2	97	20	52	25	1	1	1	
	Freddie	0	0	0	3	1	1	1	29	10	7	12				
	US Bank	1	5	0	19	11	2	6	4	0	4	0				
	Wells	40	20	10	62	51	5	6	8	2	2	4	106	0		
	Ocwen	0	6	0	1	0	0	1	11	9	0	2				
	Others	96	62	30	57	45	12	0	36	10	16	10	17	0		
	Total	197	118	52	353	288	31	55	217	56	95	60	126	0		
F-Y to Date																
	BofA	112	77	41	142	67	60	15	36	3	18	15	25	7	6	
	Chase	188	67	39	160	138	7	15	8	0	2	6	18	4	4	
	Fannie	10	8	7	8	5	0	3	189	28	76	85	21	5	4	
	Freddie	0	0	0	3	1	1	1	38	10	8	20	1	1	1	
	US Bank	49	30	10	75	40	27	8	13	2	7	4	6	4	3	
	Wells	255	85	37	474	419	43	12	45	16	4	25	496	7	7	
	Ocwen	36	15	6	3	1	0	2	42	37	2	3	2	1	1	
	Others	445	276	156	210	130	53	27	65	13	22	30	72	12	12	
	Total	1096	558	296	1075	801	191	83	436	109	139	188	641	41	38	

Investor Acquired Properties in Oakland, 2007-October 2011

URBAN STRATEGIES COUNCIL



- Investor Acquired Property (2007 through Oct 2011)
- City Council District



Key Facts

- 42% of all foreclosed properties in Oakland between 2007 and October 2011 were purchased by investor-speculators.
- 93% of all investor-speculator acquisitions are in Oakland's flatland neighborhoods.
- Only 10 out of the 30 most active investors are based in Oakland.

Data Source: foreclosureRadar, Alameda County Clerk-Recorder, with analysis by Urban Strategies Council.