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Latino Homeownership after the Collapse: Mitigating Foreclosures and Wealth Loss in our Hardest Hit Communities through Effective Policy Solutions

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Abstract

The fact that the single most important component of wealth in the United States is homeownership advises that the Latino community has been disproportionally affected by the foreclosure crisis. The majority (an estimated 56%) of families who lost homes were non-Hispanic and white, but African-American and Latino families were disproportionately affected relative to their share of mortgage originations. In fact, studies show that Latinos have lost 60% of their wealth since the onset of the housing collapse in 2008. Federal policies enacted to address foreclosures and their community wide impacts have fallen far short of their goals and are not reaching hardest hit communities and communities of color. This paper reviews recent federal foreclosure mitigation policy and identifies opportunities to ensure that new legislation addresses the need for more effective intervention in mortgage modification programs and lessens the inequitable impact that foreclosures have on Latino households. Instead of just throwing more money into existing programs, foreclosure policy needs to harness the power of the private market by allowing the banks to negotiate bulk purchases of foreclosed properties and failing mortgages, demand greater responsibility from the government supported enterprises (GSE) Fannie Mae and Freddie Mac, and allow local and state markets the flexibility to deal with the problem through replication of successful local programs and giving the attorney generals the opportunity to provide state level solutions.

Introduction

Homeownership has long provided a pathway to security and wealth for most Americans. The loss of wealth, jobs, and the glut of foreclosures in the Latino communities suggests that Latinos have been disproportionately affected by the crisis (Kochar). By foreclosure, we speak of the proceeding in which the financer of a mortgage seeks to regain property because the borrower has defaulted on payments. One of the main explanations for why Latinos are more susceptible to foreclosure is that they were more likely to purchase a home with a risky mortgage (Realty Trac). We need better policy solutions to adequately provide housing equity for Latinos and other communities of color. This analysis finds current federal policies to address restructuring mortgages and to avoid foreclosures have been largely ineffective for Latino households but are also ignoring the increasing homeownership and foreclosure disparities between Latino and white communities. Since the collapse of the U.S. housing market in 2008, the government has implemented large scale federal programs aimed at cauterizing the foreclosure problem to marginal effect, well short of the overall goal to reverse the flailing housing market (Bowdler, Horowitz, NCRC). The current foreclosure crisis, along with problems of housing affordability, has kept the vision of long term financial stability out of reach for many Latinos. By examining the obstacles facing new foreclosure policies, we identify where opportunities for change exist to ensure that new rulemaking and legislation addresses the need for greater intervention in Latino communities.

If nothing else, the current mountain of home foreclosures greatly driven by high-risk mortgage lending during much of the last decade, is devastating any recovery efforts in the housing market. RealtyTrac estimates that since December 2007, banks and other financial institutions have seized more than 2.3 million residential properties—around three percent of the nation's owner-occupied homes. This estimate does not include the 8 million dwellings with active mortgages that are either in delinquency, default or foreclosure (Abelson 2011). Neither does this estimate account for the nearly one-fourth of all mortgaged homes that says are "underwater"; that is, where outstanding loan balance exceeds market value (Core-Logic 2011).

The fact is more than one million Latino families have either lost or will soon lose their homes (CRL 2010). The rapid loss

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Federal programs addressing homeownership:

The Home Affordable Modification Program (HAMP), Home Affordable Refinance Program (HARP), and the Neighborhood Stabilization Program (NSP) are the major federal programs to address homeownership that have been implemented since 2008. In general, HAMP and HARP are mortgage modification and refinance programs available to specifically qualified homeowners. The NSP program is block grant-style funding available to states and communities to reduce the effect that foreclosed properties have on a community; it does not offer consumer level assistance to keep homeowners in their homes. The following is a brief description of each of the programs:

HAMP: HAMP, a product of redirected Trouble Asset Relief Program (TARP) funding, provides subsidies to encourage servicers, lenders, and borrowers to achieve sustainable loan modifications. HAMP is funded and run by the US Treasury Department and offers servicers $1,000 for each eligible modification and up to $1,000 each year, for up to three years, during which a borrower remains current on loan payments. Borrowers receive $1,000 each year, for up to five years, if they remain current on loan payments. HAMP offers additional subsidies to financial institutions that assist borrowers who, despite being current on their payments, are at risk of default, to modify second liens and protect against house price declines. Through interest rate reductions, loan term extensions, and last-resort principal forbearances or deferments, a borrower's mortgage payment can be reduced to 31 percent of his or her monthly income. HAMP also offers borrowers a trial modification for three months.

HARP: Where HAMP is for homeowners dealing with foreclosure, HARP is a refinance program for homeowners who are current on their mortgage but having difficulty refinancing because their home has lost value. This program is also run by the U.S. Department of the Treasury. In order to qualify for HARP, the homeowner must have a government supported enterprise (GSE) backed loan, in this case Fannie Mae or Freddie Mac. The program is also known as the Making Home Affordable plan, the Obama "Refi" plan, DU "Refi" +, and Relief Refinance.

NSP: The Department of Housing and Urban Development's (HUD) Neighborhood Stabilization Program was established for the purpose of stabilizing communities that have suffered from foreclosures and abandonment. Grants are provided to all states and selected local governments on a formula basis to purchase and redevelop foreclosed and abandoned homes and residential properties. NSP has been reauthorized twice: NSP2 and NSP3. HUD and the Obama Administration have recently proposed Project Rebuild as part of the American Jobs Act. Project Rebuild is a massive expansion of the NSP programs; budgeting more than double the amount of funds available in previous authorizations combined.

The main reason foreclosures are still rising is two-fold in that falling housing prices have increased the prevalence of negative equity; homeowners owe more than their home is worth and the mere presence of distressed properties that also pull down the value of nearby homes (Hartley, 2012 and CoreLogic). In many respects the NSP program has kept this problem from being worse than it is, but by itself the program has not reversed the foreclosure trend. In one view (Christie 2011), HAMP and HARP, long-term loan modifications, have been stymied because: (a) contrary to the common wisdom, lenders and mortgage servicers will not always find a modification to be financially viable on a large scale, and (b) extant plans are generally unable to offer modifications to those who do not fit the too specific qualifications for the program.

To reach its stated goal of assisting 3 to 4 million borrowers by program end in December 2012, the HAMP program must successfully complete 270,000 modifications each quarter or about 1.09 million each year.

The Current State of Federal Foreclosure Mitigation Policy

Within two weeks of taking office, the Obama administration announced the Making Home Affordable Program as part of a comprehensive strategy to stabilize the U.S. housing market in response to the housing market collapse in 2008. This public-private partnership enterprise combines HARP and HAMP in an effort to increase the number of sustainable mortgage modifications. The HARP program aimed to assist an estimated 4 to 5 million homeowners by expanding refinancing opportunities to borrowers who currently have loans held by Fannie Mae and Freddie Mac. The HAMP program is designed to assist another 3 to 4 million distressed homeowners by providing public and private sector subsidies to homeowners and lenders in exchange for a reduction in monthly mortgage payments.

To reach its stated goal of assisting 3 to 4 million borrowers by program end in December 2012, the HAMP program must successfully complete 270,000 modifications each quarter or about 1.09 million each year. As of late 2011, the HAMP program has fallen significantly short of this goal. While it has offered homeowners almost 1.35 million trial modifications, only 170,207 or 12.5 percent, have been converted into permanent modifications (US Treasury HAMP data 2012). The HARP program has also fallen short of its goals. Currently, the HARP program has assisted 200,000 borrowers refinance into lower cost loans. While a considerable improvement over the industry-led initiatives and the free market, the Obama Administration's HAMP and HARP programs are not keeping pace with foreclosures. This is due to several institutional and structural challenges detailed in National Community Reinvestment Coalition (NCRC) testimony submitted to the U.S. Congress for a March 25th, 2011 hearing of House Committee on Oversight and Government Reform (NCRC Testimony2011).

The following are the main findings of the NCRC HAMP Mortgage Modification analysis:

(1) Loan servicers foreclose upon delinquent black or African-American borrowers more quickly than delinquent white or Hispanic borrowers. This indicates a need for fair lending investigations of HAMP program and participating servicers.

(2) White HAMP-eligible borrowers are almost 50% more likely to receive a modification than African-American HAMP-eligible borrowers. Only 24.3 percent of African-American respondents and 32.3 percent of Hispanic or Latino respondents received some kind of modification. In contrast, 36.4 percent of HAMP-eligible whites received a modification. These findings suggest the need to address barriers impeding eligibility and equitable access.

(3) There are more employment-related foreclosures and delinquencies than foreclosures and delinquencies resulting from problematic loans. While 76.5 percent of respondents identified job loss or reduction of work hours as why they were unable to keep up with mortgage payments, 33.5 percent reported problematic loans as the reason for their delinquent status.

(4) Less than half of HAMP-eligible applicants in the survey received a modification. Program history also shows that a vast majority of these modifications were temporary and only 12.6 percent of these were converted into permanent modifications. More needs to be done to determine why denial rates are high and trial modifications are not being converted into permanent modifications at a meaningful level.

(5) Homeowners with foreclosures pending were less likely to receive a modification than those still current on their mortgage payments. Half of the survey respondents with foreclosures pending did not receive a modification compared to 25 percent of borrowers that were current on their mortgage. About 44 percent of borrowers that were delinquent but not yet in the foreclosure process did not receive a modification. In order to maximize chances that the modification is approved, HAMP and other programs must intervene before a distressed borrower becomes delinquent and before the foreclosure process begins.

(6) Survey respondents that were not eligible for HAMP were slightly more likely to receive modifications than respondents that were HAMP-eligible. About 38 percent of respondents not eligible for HAMP received modifications compared to 31 percent of HAMP-eligible respondents. This does not mean that non-HAMP borrowers received superior modifications; in fact, the survey suggests that payment reductions were roughly equal for HAMP and non-HAMP borrowers. Yet, this finding does suggest the need for the Treasury Department to take steps to improve HAMP modification acceptance rates and deepen payment reductions.

(7) The majority of the modifications involved an interest rate reduction. Principal reductions were scarce. HAMP needs to significantly increase principal modifications, particularly in parts of the country where large numbers of homeowners owe more than their homes are worth.

(8) Thirty five percent of respondents with one mortgage were approved for a modification compared to only 16 percent of those with two or more mortgages. The HAMP program must significantly increase its capacity to serve borrowers with second liens.

The changes in median wealth in 2011 are startling; another Pew Hispanic Center report indicates (Taylor, et al 2011). The average Hispanic household had only $6,325 in accumulated wealth. The average white household had $113,149 in wealth, more than 18 times that of Hispanic households.

Latinos and Lost Wealth

During the housing boom of the last two decades, homeownership rates increased to record levels (Kochhar, Gonzalez-Barrera and Dockterman, 2009). However, since then, the collapse in the housing market has brought declining homeownership rates and falling housing prices. For Latinos, after reaching a record high of 50% in 2006, the homeownership rate fell to 47% in 2011, matching similar declines among other groups. However, falling housing prices have affected household wealth among Latinos more than other groups. In 2005, Latinos derived nearly two-thirds of their net worth from home equity. However, because many Latinos live in places where housing prices increased the most prior to the housing crisis—and have fallen the most since—the housing bust had a greater impact on Latino household wealth than any other group (Kochhar, Fry and Taylor, 2011). The steep decline in housing prices has many Latino homeowners underwater on their home mortgages. According to a Pew Hispanic Center survey, 28% of Latino homeowners say they owe more on their home than what they could sell it for—double the share (14%) of homeowners in the general population who say the same.

The changes in median wealth in 2011 are startling; another Pew Hispanic Center report indicates (Taylor, et al 2011). The average Hispanic household had only $6,325 in accumulated wealth. The average white household had $113,149 in wealth, more than 18 times that of Hispanic households. The median level of home equity held by Hispanics was cut in half between 2006 and 2009, according to the Pew report, and home ownership rates among Hispanics fell from 51 to 47 percent, a sharper drop than for blacks or whites (CRL 2010). One theory suggests that the steep decline in household wealth among Hispanics, in particular, is directly related to the high levels of foreclosures occurring among Latinos. The Center for Responsible Lending (CRL 2011) found notes that "as the foreclosure crisis threatens the financial stability of families across the country, it will be particularly devastating to African-American and Latino families, who already lag in terms of income, wealth and educational attainment. Non-Hispanic whites represent the majority of at-risk borrowers, but African-American and Latino borrowers are more likely to be at imminent risk of foreclosure (21.6% and 21.4%, respectively) than non-Hispanic white borrowers (14.8%).

Neighborhood Stabilization: What is Working and why it is not Enough

Among federal programs that address the effects of foreclosures on communities, there is one that is working: The Neighborhood Stabilization Program (NSP). The effectiveness of the NSP programs is its ability to link public funds to private mortgage holders through the use of local governments and non profit agencies. One of these is the National Community Stabilization Trust (NCST). When leading national nonprofit organizations created the NCST in the summer of 2008, the premise was that this new organization would connect two disparate worlds—the financial institutions holding unprecedented levels of foreclosed and abandoned property and local housing providers seeking to purchase and reuse these properties to foster neighborhood stabilization. The main problem here is that NSP is a stabilization program, not a refinance program. Though NSP stabilizes the prices of home in certain communities, there are no provisions for those already in foreclosure or deeply underwater in their current mortgage. The point here is that targeting and community control work and should be models for revision of HAMP, HARP, and any other future foreclosure prevention programs.

In late 2008, NCST launched its national Property Acquisition Program to facilitate the transfer of foreclosed and abandoned property from financial institutions to local housing providers systematically, predictably, and transparently. It has established working relationships with over 130 NSP grantees and enlisted the participation of the nation's leading financial institutions. In addition, NCST pioneered the "first look" model, which gives NSP-funded buyers a window of exclusivity to see and determine interest in new real estate owned (REO) listings before these properties are marketed to the broader buying public. Although developed initially to ensure a substantial discount consistent with early HUD NSP requirements, the "first look" program is also a way to ensure that NSP buyers can see and selectively buy REO property without competition from private investors.

Another NCST program is the standardized acquisition program that enables quick sales of REO to publicly supported buyers, a money-saving proposition for financial institutions managing REO as it allows them to avoid transaction uncertainty, lower carrying costs and marketing costs, and reduce risk of property deterioration and vandalism. Quick acquisition decisions and fast closings on properties save REO sellers real money that can be passed on to NSP buyers. Financial institutions calculate the price at which they are willing to sell the properties through NCST using a "net realizable value" process that reflects cost savings from the expedited REO sales. NSP grantees have achieved an average property discount of over 17 percent from fair market value on transactions (a savings of over $13,000 per property). As of 2011, financial institutions working with NCST have transferred

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nearly 3,000 REO properties directly to NSP grantees representing more than 250 communities in 41 states.

In 2010, HUD Secretary Shaun Donovan announced a national HUD First Look program. NCST's established system serves as the "engine" behind this new program. Large financial institutions participating in First Look include Bank of America, Citigroup, Fannie Mae, Freddie Mac, FHA, GMAC, JPMorgan Chase, Nationstar, and Wells Fargo and specialty servicers such as Ocwen and Saxon. Under the program, HUD encourages all servicers and investors to commit to establishing a "first look" process for REO listings to ensure that NSP grant recipients can more strategically and effectively acquire properties to advance their local stabilization efforts.

NSP grantees now have access to a collection of technology tools that can assist them to more accurately assess their local real estate landscape and use data to drive strategic planning efforts. *REOMatch* is a web-based mapping and property transaction tool that enables property buyers to define target areas and view all REO listings within those set boundaries in real time and helps them identify acquisitions, smoothly navigate the transaction process, and manage NSP acquisition pipelines. *Community Central*, developed by Mercy Housing, a national nonprofit that develops, finances, and operates affordable housing, provides comprehensive project management capabilities for local NSP programs. The web-accessible platform offers asset and project management tracking and reporting over a full lifecycle of NSP-funded evaluation, acquisition, rehabilitation, and disposition. The Reinvestment Fund's *PolicyMap* is a tool that aggregates and displays a wide array of demographic and economic data at a glance, helping local housing providers with planning and execution strategies.

An Assessment of What Works:
NSP brings resources to help struggling communities, but realistically, NSP funding pales in comparison to the unprecedented size and scope of America's housing crisis. The challenge going forward, therefore, should not be to focus on a new and improved NSP, but rather to figure out how to use the limited federal funding being made available through NSP, CDBG, HOME, and other sources to restart the private sector. Real, sustainable neighborhood reclamation will require a greater involvement of the private sector (Bowdler 2011, El Bohgdady 2010, Foote 2009); not as a competitor to local public and nonprofit activities, but rather as a partner. More institutions that hold defaulted assets, including specialized distressed asset servicers, private investor note purchasers, short sale experts, and holders of low-value assets, must increase the inventory of available properties. Localities need access to all of the strategically important property assets to be successful. Firms that specialize in property renovation and new construction at scale must be engaged in turnkey development activities. Property acquisitions should never be slowed down waiting on local development teams to free up for additional renovations.

Limited federal dollars must leverage private capital. Too often, localities have chosen to obligate their NSP funding by investing large, unleveraged sums directly in acquisition and renovation of REO properties (Nickerson 2010). While this approach commits the federal funding quickly, it "locks up" that flexible capital for extended periods of time until the property is subsequently sold to a new buyer. Increasingly, NSP dollars must instead be used to reduce the risk for private investment to ensure funds can be moved faster and for more properties.

The Foreclosure Settlement and State Attorney General (AG) Regulation:
In February 2012 The Obama administration announced a $25 billion settlement with 5 major mortgage lenders. The settlement references the "robo-signing" controversy in which major mortgage companies improperly foreclosed on millions of properties without. The core of the deal is a $20 billion fund stocked with fines paid by the mortgage companies, which will deliver relief to as many as 1 million troubled borrowers via lowered monthly payments, principal reduction and refinanced loan terms.

The key to the deal are new standards that mortgage companies must live by and an independent monitor empowered to watch over implementation, with possible fines reaching $1 million per violation (Goodman 2012). The deal will be filed in U.S. District Court in Washington, D.C., ensuring a venue for legal enforcement. Another key is giving state attorney general control over use of the funds in their states and also exclusive power to enforce violations of the settlement agreement.

New Attorney General Enforcement Changes the Game:
State AGs will actually be able to enforce the laws, even against the national banks whereas in the past only the industry-controlled Office of the Comptroller of Currency (part of the U.S. Treasury) could take action against federal banks. In allowing state AG oversight of national banks for the first time:

- National banks will be required to regularly report compliance with the settlement to an independent, outside monitor that reports to state Attorneys General.
- Servicers will have to pay heavy penalties for non-compliance with the settlement, including missed deadlines.

The difficulty obtaining modifications for eligible homeowners, the unwillingness of private banks to participate, and the inability to compel bank participation has made justice unattainable for those foreclosed upon because of an inability to modify or re-finance their mortgage.

Who benefits:
Latinos, Neighborhoods, Equity:
The successes of NSP initiatives are that the hardest hit communities (those with the highest number of foreclosures, highest levels of poverty) are targeted for more funds and there is local control over how the funds are spent. Jurisdictions that receive NSP funds must give priority emphasis to the areas of greatest need within their states, including areas with the greatest percentage of foreclosures, areas with the highest percentage of homes financed by subprime mortgage related loans, and areas identified as likely to face a significant rise in the rate of home foreclosures. Subsequently, NSP has granted close to $7 billion to local and state governments as well as non-profit organizations, and more than 16% of the beneficiaries of home acquisitions, construction, rehabilitation and homeowner counseling have been Latino families. Additionally 9% of all NSP funds had been invested in Congressional Hispanic Caucus districts despite only constituting 1% of all congressional districts (Gonzalez 2010).

Policy Recommendations

Though the U.S. Treasury has made some revisions, fundamental changes to federal policy on housing foreclosures are needed to reach more families in distress. The difficulty obtaining modifications for eligible homeowners, the unwillingness of private banks to participate, and the inability to compel bank participation has made justice unattainable for those foreclosed upon because of an inability to modify or re-finance their mortgage. Moreover, the private sector's move away from HAMP proprietary modifications outnumber HAMP modifications two to one suggesting that the program's influence and relevance are waning. Continued congressional focus on the programs that are not working preventing taking the bold steps needed to help millions of Americans facing foreclosure today. In order to create policy that addresses those communities hardest hit by foreclosures, new legislation must:

- **Leverage the private-sector:** Rather than modifying mortgages one at a time, funds could be leveraged to negotiate directly with investors to buy failing mortgages or foreclosed properties in bulk. Currently many mortgages are serviced on behalf of a group of investors in complex securitization trusts whose interests are not the same. The vague obligations to the investors, along with certain provisions of the Servicing Agreements, make it difficult for many mortgage servicers to make more beneficial modifications to at-risk mortgages and therefore to prevent more unnecessary foreclosures. A policy that encourages the current trustees to sell the loan or a pool of loans to a new owner without the complex duties to various investors would make it far more likely that beneficial modifications occurred at a rapid pace.
- **Replicate local success.** For example, Boston Community Capital is helping evicted homeowners reclaim their property. States are using the HUD Hardest Hit Fund to respond to unique local conditions. Many successful programs cannot be replicated on the federal scale due to efficiency or other programmatic issues but can succeed at a small aggregate.
- **Require more responsibility from Fannie Mae and Freddie Mac.** The OCC called for an end to the "dual tracking" of foreclosures and modifications, and Bank of America has committed to partnering with others to address this unfair practice. Their efforts are severely undermined, however, without Fannie and Freddie on board. The Treasury and FHFA must compel the GSEs to implement this basic tenant of responsible foreclosure prevention.
- **Settlement enforcement by the Attorney Generals.** The AGs must accomplish what the Treasury has not set firm, enforceable rules for modifications that include principle write-downs. The recently agreed upon mortgage settlement allows for unprecedented enforcement of mortgage activities by state AGs. The AGs need to step up to the plate and be aggressive in enforcing the settlement rules.

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