



February 9, 2024

New York State Legislature
2024 Joint Budget Hearing
Housing

wamchair@nyassembly.gov

financechair@nysenate.gov

My name is Jacob Inwald. I am the Director of Litigation—Economic Justice at Legal Services NYC. I submit this testimony on behalf of Legal Services NYC in support of funding for New York’s Home Owner Protection Program (“HOPP”), which is the sole source of state funding for the statewide network of housing counseling agencies and legal services providers offering foreclosure prevention services for New York’s struggling low-and-moderate-income (“LMI”) homeowners. Legal Services also seeks your support for renewing funding for OTDA’s Eviction Prevention and Housing Stability Project.

Home Owner Protection Program (“HOPP”)

Legal Services NYC is the Technical Assistance Partner for legal services to the Center for New York City Neighborhoods, which is one of two Anchor Partners who are contracted with the New York State Attorney General’s Office to administer the statewide HOPP network. The other Anchor Partner is the Empire Justice Center. *The Governor’s proposed budget eliminates all funding for HOPP.*

Regrettably, this is an annual exercise—every year, with one exception, the Governor’s proposed budget proposes to zero out funding for this vital network, and every year it is left to the legislature to ensure that the state’s investment in the HOPP network is not discarded. Last year, thanks to the legislature, HOPP funding was provided at \$40 million, after having been increased to \$35 million in the previous year. Prior to that, the program had been level-funded at \$20 million for more than a decade with no increases to account for increased personnel and other costs. Those increases were needed to address drastically increased rates of mortgage and property tax defaults in the wake of the pandemic, in addition to ever-increasing threats to low-and-moderate-income homeownership posed by deed theft, partition and loan modification scams. Unless the legislature ensures that the Governor’s proposed elimination of the HOPP network does not go through, when the existing contracts conclude on July 15, 2024, *there will*

Jacob Inwald
Director of Litigation--Economic Justice
Legal Services NYC Legal Support Unit
40 Worth Street, Suite 606, New York, NY 10013
Phone: 646-442-3634 e-mail: jinwald@lsnyc.org www.LegalServicesNYC.org
Raun J. Rasmussen, Executive Director, **Liza M. Velazquez**, Board Chair





be no funding for New York’s HOPP network at all, leaving struggling homeowners nowhere to turn except deed theft and distressed property consultant scammers, and wreaking havoc in the courts.

As recently as November 14, 2023, Governor Hochul signed important legislation making improvements to various aspects of the law that will benefit homeowners who have already been victimized by deed theft scams. At a bill signing ceremony at Brooklyn Law School that day, Governor Hochul spoke compellingly about how central homeownership is to the American dream. Sitting beside her as she signed that legislation, along with Attorney General Letitia James, were Joseph Clarke and Jacqueline Knights, who were victims of a pernicious deed theft scam and clients of HOPP grantee Brooklyn Legal Services. Governor Hochul praised Brooklyn Legal Services’ valiant efforts over years of litigation to restore the couple’s title to their home, but less than two months later her proposed budget would eliminate funding for the very program whose advocates restored Mr. Clarke and Ms. Knights’ title after they fell prey to a deed theft scam. The recent legislation, as well as additional provisions contemplated in the proposed budget, are important protections, but without the HOPP network distressed homeowners will have nowhere to turn but to the scammers looking to prey on them, and the provisions meant to provide protections for deed theft and partition scam victims will be of no use if the HOPP-funded programs representing homeowners vindicating their rights are eliminated.

We are thankful for the Legislature’s consistent support for HOPP and we recognize that without the restoration of funding for this program every year when funding for it was excluded from the executive budget proposals, New York would have long ago lost its investment in the country’s most robust foreclosure prevention network. The executive budget’s exclusion of any funding for the HOPP network—New York’s only program focused on preserving existing homeownership, largely in communities of color and affecting the elderly—threatens the termination of this vital program just when it is most needed.

Legal Services NYC (“LSNYC”) is the nation’s largest provider of free civil legal services to the poor. For more than 50 years, LSNYC has provided expert legal assistance and advocacy to low-income residents of New York City. Each year, LSNYC’s neighborhood offices across New York City serve tens of thousands of New Yorkers, including homeowners, tenants, the disabled, immigrants, the elderly, and children.

Jacob Inwald
Director of Litigation--Economic Justice
Legal Services NYC Legal Support Unit
40 Worth Street, Suite 606, New York, NY 10013
Phone: 646-442-3634 e-mail: jinwald@lsnyc.org www.LegalServicesNYC.org
Raun J. Rasmussen, Executive Director, **Liza M. Velazquez**, Board Chair



LSNYC is also the oldest and largest provider of foreclosure prevention legal services in New York City. LSNYC’s homeownership preservation projects represent distressed homeowners and victims of predatory and discriminatory lending, abusive mortgage servicing and inequitable property tax collection in neighborhoods decimated by foreclosures across Brooklyn, Queens, Staten Island, and the Bronx, and it has handled nearly 22,000 cases for NYC homeowners since 2007. The families we serve are mostly located in the neighborhoods where deed theft and partition scammers are rampant, preying on the elderly and black and brown homeowners, and stripping equity from longstanding homes as appreciating property values attract speculators and private equity.

The HOPP network comprises 89 non-profit housing counseling and legal services agencies that help New York homeowners, coop owners and condo owners avert homelessness and displacement by preventing avoidable mortgage, tax and utility lien foreclosures, combating mortgage fraud, deed theft, loan modification and partition scams, and challenging predatory and discriminatory lending and abusive mortgage servicing practices that disproportionately impact New York’s most vulnerable communities—seniors and people of color. The network serves every county in New York State and all five boroughs of New York City, but current grants funding this vital network end on July 15, 2024. A total of \$40 million is needed to ensure that the existing HOPP network is able to meet the existing need for the network’s services in light of the unprecedented homeowner distress across New York State, which dwarfs the rates of default seen during the last foreclosure crisis.¹

Even before the onset of the pandemic, New York continued to battle a foreclosure crisis brought on by the last recession, but in the wake of COVID-19 the need has become even more acute as New Yorker homeowners across the state have suffered from lost employment and rental income from tenants. New York is continuing to see high delinquency rates, especially in communities of color. According to U.S. Census Household Pulse Survey data, as of fall 2023, an average 8% of New York homeowners were delinquent on their mortgage loans, with an average of 306,587 New York families at risk of losing their homes. These numbers show a significant increase in mortgage distress since the prior year, when the number of families at risk was 288,261. This delinquency rate dwarfs the rate of 2.2% in January 2020, right before the

¹ The HOPP grantees contract years are not aligned with the State fiscal year, so funding in this year’s budget is required for the network to be able to continue after current contracts end on July 15, 2024. The executive budget includes re-appropriation language that will permit last year’s allocation to be used after March 31, 2024 for the existing contracts, which are not paid until *after* the end of the contract term, but last year’s allocation will have been exhausted upon the conclusion of the current contract year on July 15, 2024.

Jacob Inwald
Director of Litigation--Economic Justice
Legal Services NYC Legal Support Unit
40 Worth Street, Suite 606, New York, NY 10013
Phone: 646-442-3634 e-mail: jinald@lsnyc.org www.LegalServicesNYC.org
Raun J. Rasmussen, Executive Director, **Liza M. Velazquez**, Board Chair



COVID pandemic started, and exceeds the high of 3.8% in January 2009, during the height of the financial crisis and Great Recession. Court filings are also rising, with New York State Unified Court System data showing nearly 11,000 new foreclosure case filings in the first eight months of calendar year 2023, and nearly 21,000 pending foreclosure cases across the State.

Even more alarming are the disparities between white homeowners and homeowners of color: for 2023 a monthly average of 15% of Black and Brown homeowners were delinquent, compared to 7% of non-Hispanic white homeowners in New York State. Preserving homeownership is very much a civil rights and economic justice issue, as foreclosure represents not just the loss of homes, but also the stripping of equity and generational wealth from communities of color. Homes lost to foreclosure, especially in urban areas, also represent the loss of affordable rental housing, as many homes include affordable rental units which are lost when homes succumb to foreclosure and are purchased at auction by private equity real estate speculators. The loss of these homes to foreclosure also increases the significant disparity in homeownership rates for communities of color compared with white communities.

A complicated patchwork of federal and state programs has evolved in the aftermath of the pandemic that homeowners cannot navigate on their own. FHA, Fannie Mae, Freddie Mac, and conventional lenders launched different forbearance plans and loss mitigation options for distressed borrowers, and New York State enacted its own law on forbearance programs for New York-regulated lenders and mortgage servicers. Accessing relief requires understanding the details of these various interventions and knowing who owns the loan in question and what program a homeowner may be eligible for. Homeowners need help to ensure they can access relief and they need advocates to make sure lenders are complying with applicable federal or NY laws and regulations. New York's Homeowner Assistance Fund, which has made federal funding available to assist distressed New York homeowners in a program administered by NY Homes and Community Renewal ("HCR"), which is now winding down, has reached a small portion of New York's distressed homeowners, and it has been dependent on the HOPP network to assist homeowners in accessing the program.

For more than a decade, this network has been helping families in every county across New York State, and in each of the five boroughs of New York City, navigate complex housing challenges -- including mortgage fraud, scams, displacement, discriminatory lending and mortgage servicing -- and it has helped thousands of families to keep their homes and to stay in their communities. It has helped not just the individual families affected by foreclosures but the

communities at large, by preventing displacement and by preventing the increased crime and reduced property values that accompany waves of foreclosure, which, in turn, adversely affect the local community tax base.

Without the restoration of the funding proposed to be eliminated by the Governor’s proposed budget many of those not-for-profit housing counseling agencies and legal services providers will be ending their homeownership retention services when current contracts expire on July 15, 2024 and will be forced to turn away homeowners needing their assistance, leaving New York’s struggling homeowners more vulnerable to the scammers peddling foreclosure rescue deed theft schemes and distressed property consultants, whose ranks have been multiplying as real estate values are increasing in many regions of the state. Indeed, even now, with the Governor’s proposed elimination of the program causing uncertainty about the continuation of the program after the current contract year (as it does every year) case acceptance at HOPP-funded agencies is inhibited, because agencies cannot in good conscience accept new cases that have no prospect of resolution prior to July 15, 2024 with the continuation of the program after that date in question. This uncertainty is also damaging to HOPP staff morale, many of whom are lost every year when the program’s continuation is thrown into question by the Governor’s proposal to de-fund HOPP.

Not only will New York families and communities endure the impacts of avoidable foreclosures, but employees across the 89 HOPP-funded agencies are endanger of losing their positions, and their expertise, along with the associated training and infrastructure supporting this network—which represents a substantial investment of resources by the State of New York, will be discarded.²

² In the contract year that ran from July 16, 2021 through June 15, 2022, the HOPP network of housing counseling agencies and legal services providers served 9,501 clients, with a total staff count of 473 (203.53 FTE). In the following contract year (running from July 16, 2022 through July 15, 2023), the network served 20,564 clients (more than double the number served in the prior year), and it increased its staffing levels, with the total staff count increasing to 637 (289.67 FTE) (thanks to the increased funding of \$35 million allocated in the FY 2022 budget). In the current contract year, for which the FY 2023 budget allocated \$40 million, which runs through July 15, 2024, the HOPP network’s staffing has further increased to 667 (FTE 316.47) as groups across the State continued to ramp up capacity to meet the increased need for services, and we expect the number of clients served to exceed that of the prior contract year. At the conclusion of the current contract year on July 15, 2024 the current allocation will have been exhausted, given the significant ramp up in hiring to meet the increased demand for services. These numbers are derived from HOPP grantees’ data reporting to the two Anchor Partners who work with the Office of the Attorney General to administer the HOPP grants, Empire Justice Center and the Center for New York City Neighborhoods. This is consistent with industry reports showing that foreclosure starts in

The homeowners receiving help from HOPP agencies are working, LMI families, New Yorkers of color who were targeted for predatory loans, seniors battling a wave of foreclosures on reverse mortgages and tax and water liens, and families who have experienced illness or deaths that have landed them in financial distress. The network mitigates displacement from foreclosures, scams and mortgage distress and its advocates challenge abusive mortgage servicing by financial institutions and discriminatory lending practices such as reverse redlining, in which vulnerable communities were targeted for the most toxic of loan products. Of late, the HOPP network has been tackling the epidemic of “zombie second lien” foreclosures, pursued by debt buyers who purchased for pennies on the dollar long-abandoned second mortgages, which were marketed during the heyday of predatory lending as toxic “80/20” loans targeted to communities of color. The originating lenders abandoned those underwater loans years ago, but with appreciating real property values, speculators and private equity are now attempting to foreclose on homes saddled with these second liens, even though the claims are largely barred by statutes of limitations.

The need for these direct service providers is actually embedded in New York’s consumer protections enacted after the foreclosure crisis, which are now permanent features of the judicial foreclosure process:

- Lenders are required by law to send pre-foreclosure notices specifically identifying counseling agencies serving the homeowners’ county—*the very agencies that depend on the HOPP program for their funding* that the Governor’s proposed budget would eliminate.
- HOPP network providers are integral to NY’s pioneering foreclosure settlement conference process, where they partner with the courts to staff clinics and conferences and have been instrumental in drastically increasing the numbers of homeowners with representation at settlement conferences and in increasing the numbers of homeowners answering foreclosure complaints and preventing default judgments. Indeed, thanks to this network many homeowners facing foreclosure now have representation during the court settlement conference process, whereas prior to the network’s inception most homeowners had no counsel and most foreclosure cases resulted in default judgments in

the first half of 2023 increased by 15 percent compared to the same period in the previous year. Indeed, New York is among the states with the most foreclosure starts, along with California, Florida, Texas, and Illinois. See Attom, Midyear 2023 U.S. Foreclosure Report, available at <https://www.attomdata.com/hnr/midyear-2023-u-s-foreclosure-report/>.

Jacob Inwald
Director of Litigation--Economic Justice
Legal Services NYC Legal Support Unit
40 Worth Street, Suite 606, New York, NY 10013
Phone: 646-442-3634 e-mail: jinwald@lsnyc.org www.LegalServicesNYC.org
Raun J. Rasmussen, Executive Director, **Liza M. Velazquez**, Board Chair

which homeowners did not have access to counsel for the judicial foreclosure process.

- Amendments to the settlement conference law provide homeowners attending their first conference a chance to avert default judgment and seek help from HOPP-funded legal services providers to file an answer to the foreclosure complaint, but that statutory mandate will be meaningless if the HOPP funded agencies staffing conferences to provide this assistance are de-funded as envisioned by the Governor's proposed budget.

These services are a crucial tool in preserving sustainable, affordable homeownership. Especially in New York City, the loss of a home to a foreclosure that could have been averted also represents the loss of naturally-occurring affordable rental housing, as many of the homes impacted incorporate affordable rental units that are lost to the rental market when the home is lost to foreclosure and sold off to investors and developers.

No homeowner should have to experience the fear of displacement by foreclosure that is avoidable with the availability of a HOPP advocate. New York families continue to need access to free resources and experts to help them understand their options during a pandemic that has brought economic dislocation on an unprecedented scale.

If the existing network in which the State has invested is defunded (or left inadequately funded to meet the vast increase in demand for their services), homeowners will be left to fend for themselves, or worse, be at the mercy of scammers just waiting to take advantage of vulnerable homeowners, coop owners and condo owners desperately seeking to save their homes, as they defend themselves in court or attempt to resolve their mortgage or property tax distress. These are complicated, bureaucratic processes that can be nearly impossible to navigate without a nonprofit housing counselor or lawyer.

With \$40 million in funding the HOPP network will be able to continue its great work and combat urgent housing issues across the state, including:

- The flow of zombie properties that destabilize neighborhoods;
- Mitigating distressed mortgage and tax foreclosures, especially those affected those suffering from the impacts of COVID-19, preventing displacement;



- Stopping scammers from stealing people’s homes and charging for loan modification services that are never provided, and stemming the tide of partition scammers preying on heirs and stripping equity from minority neighborhoods; and

- Providing representation to the state’s seniors, who have been facing a wave of reverse mortgage foreclosures in recent years, who have only recently received the consumer protections New York has provided to other residential mortgage foreclosure defendants;

- Addressing the latest wave of “zombie second mortgage” foreclosures, in which debt buyers have purchased long-abandoned second mortgages marketed to black and brown homeowners as predatory “80/20” loans and are now seeking to foreclose in order to pocket the equity in those properties.

Accordingly, we are hopeful that the legislature will restore \$40 million in funding for HOPP in this year’s budget so that the HOPP network’s crucial work in preventing deed theft and other scams and preserving affordable homeownership across the state can continue beyond July 15, 2024, and so that New York’s struggling homeowners retain the advocates they need to have a fighting chance.

OTDA’s Eviction Prevention and Housing Stability Project

Finally, we ask for your support in renewing funding for OTDA’s Eviction Prevention and Housing Stability Project. For three years, the State budget has included \$35 million in funding to deliver eviction prevention services upstate; last year the legislature added an additional \$15M--\$5M for additional upstate services and \$10 million for Legal Services NYC to deliver these services in New York City. Since learning about this funding in September 2023, we have been ramping up to provide additional legal representation to prevent eviction, but also to increase services to ensure that tenants can increase their income and get rental subsidies that allow ongoing housing stability and affordability. Funding from the New York State legislature of \$10 million will allow us to continue to develop critically needed eviction prevention and housing stabilizing legal services to low income New York City residents, at a time when eviction pressures are greater than ever.

For more information, please contact Jacob Inwald, at jinwald@lsnyc.org or 646-442-3634