



Memorandum

TO: COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

FROM: Leslye Krutko

SUBJECT: STATUS REPORT ON FORECLOSURES

DATE: April 13, 2010

Approved

Date

4-13-10

RECOMMENDATION

It is recommended that the Community and Economic Development Committee accept the status report regarding foreclosure prevention efforts in San José. Housing Department staff will make a brief presentation at the meeting and be available for questions.

DISCUSSION

The foreclosure crisis continues to be a major problem for San José residents. Foreclosure rates continue to increase, with foreclosure activity spreading to other areas outside of the previously identified hardest hit areas, increasing the impacted zip codes from four to twelve.

In 2007 and 2008, most homeowners facing foreclosure were in danger of losing their homes because their adjustable rate mortgages were resetting, resulting in higher unaffordable payments. However, in 2009, we are finding a new group of homeowners facing foreclosure-- A-credit homeowners with both fixed and adjustable rate mortgages who lost their jobs due to the current economic downturn. According to statistics compiled by ForeclosureHelp, the public-private partnership working to respond to the foreclosure crisis, 70% of clients assisted recently have experienced a reduction of income or job loss.

The following chart shows year-to-year comparisons of foreclosure filings in San Jose:

Calendar Year	Foreclosure Filings	Percentage Increase
2006	2000	
2007	5,800	290%
2008	14,000	240%
2009	16,500	19.7%

Although the percentage increase shown in the above table illustrates that foreclosure filings have moderated, the sheer number continues to rise. In 2009, there was 19.7% increase in filings over 2008. This demonstrates the continued need for foreclosure mitigation services.

ForeclosureHELP continues to actively assist homeowners and tenants impacted or at risk of being impacted by foreclosure. The following is a discussion of the actions that have been taken or are underway to address the foreclosure crisis.

- 1. ForeclosureHELP Assistance Center** – The Center, located in the Parkmoor Work2Future offices, provides a first point of entry into the foreclosure mitigation process. Clients are assisted with loan modification documentation packaging, information and referral services to homeless prevention, employment and legal services, and referral to HUD-certified counselors qualified to provide advice on options to foreclosure. This service is possible through a collaborative effort with the Santa Clara County Association of Realtors, which provides approximately 250 volunteer hours each month. The dedicated volunteer support is essential due to the limited number of HUD-certified foreclosure counselors in Santa Clara County. In collaboration with Destination:Home, the Center is also a referral source linking clients to emergency financial assistance in order to rapidly re-house families losing their homes due to foreclosure. Since its opening last year, the Center has assisted over 1,000 families with information and referral services, facilitated 30 loan modifications, recovered \$5,500 from a rescue scam, referred 44 clients to homeless prevention services, and referred 120 clients to legal counseling services.
- 2. Foreclosure Prevention & Resource Fair** – In October 2009, the City and Task Force held a foreclosure prevention and resource fair with participation from two lenders—JP Morgan Chase and Wells Fargo, three nonprofit foreclosure counseling agencies, three nonprofit legal agencies, as well as property tax, employer, and social service resources. Over 160 people attended the event at the Mexican Heritage Plaza and were referred to onsite services that included foreclosure prevention counseling, legal assistance, and credit counseling. Information workshops were presented throughout the day, and included sessions on: 1) Options to Foreclosure; 2) Credit Counseling; 3) Legal Services, and 4) How to Recognize a Rescue Scam. Although there was significant outreach to the local ethnic media, the turnout was low in comparison to the April 2009 Fair. It is thought that this may have been due to the timing of an event hosted by the Neighborhood Association of Consumer Advocates, a strong national organization providing foreclosure mitigation services, which was scheduled for four consecutive days in the Bay Area and ending the day before the City's event.
- 3. Neighborhood Stabilization Programs (NSP 1 & 2)**

NSP1- Under the Housing and Economic Recovery Act of 2008, HUD awarded the City of San Jose \$5.6 million in Neighborhood Stabilization Program funds for acquisition and rehabilitation of foreclosed and abandoned properties for the benefit of low-income

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individuals and communities hardest hit by the foreclosure crisis. The City's plan was approved in March 2009. Staff selected a qualified developer in October 2009 who has actively purchased and rehabilitated properties. Under the Multi-family program, eight rental units will be rehabilitated and made available to very low-income households, or those earning less than 50% of Area Median Income (AMI) (or \$52,750 for a family of four). Approximately twenty single family units will be acquired, rehabilitated and made available for re-sale to households earning up to 120% AMI (or \$126,600 for a family of four). After re-sale, the proceeds of the sales will revolve back to the City and be used for the acquisition and rehabilitation of additional foreclosed residential properties. As of April 12th, seventy-four percent of the funds have been obligated. However, there are five pending offers on single family homes that have yet completed the due diligence period. If all five transactions are closed then 100% of the original NSP1 funds will be obligated. All future activity will be funded from the proceeds of the homes sold. The chart below details the specific activities:

NSP1 Program	Acquisitions to Date	Funds Obligated	Rehabilitation	Resale Activity
Multi-Family	8 units acquired	\$1,532,000	Developing the rehabilitation work scope	
Single Family	8 homes acquired	\$2,610,833	6 under construction	2 for sale
Total	16 Units	\$4,143,733		

NSP2 - In January, the City received word that the \$25 million competitive application submitted in partnership with the Housing Trust of Santa Clara County (HTSCC) and the Neighborhood Housing Services Silicon Valley (NHSSV) for NSP2 funding under the American Recovery and Reinvestment Act of 2009 had been approved. Under this program, 100 income-eligible families will be assisted with the purchase of foreclosed homes through the purchase assistance loan program, and 105 foreclosed residential units will be assisted through acquisition and rehabilitation and made available for re-sale to income-eligible homebuyers. On April 6, the City Council authorized the Director of Housing to enter into a \$19 million Consortium Funding Agreement with the San Jose

NSP2 Consortium Lead Member, the Housing Trust of Santa Clara County, for the acquisition/rehabilitation program.

4. **Communications with Local Banks** - Staff has held several meetings with representatives from local and national banks in an effort to streamline acquisition of REO properties. We have maintained on-going conversations with JP Morgan/Chase and Wells Fargo Bank through our NSP and ForeclosureHelp efforts. These efforts are ongoing.
5. **Outreach and Events** - Since August 2009, staff has participated in 25 community information and outreach events, including the NUMMI Education Fair on February 18th. Staff have also implemented an educational campaign to faith-based organizations as a result of the interest expressed at the October 2009 Mayor's Annual Faith Leaders Appreciation Breakfast. To date, events have been organized at Most Holy Trinity Catholic Church, the Islamic Center, the Willow Glen Spiritual Center, and the East Valley Pentecostal Church. Staff continues to work with People Acting in Community Together (PACT), a community advocacy group active in neighborhoods heavily impacted by foreclosure. The ForeclosureHelp Program Manager and other staff continue to participate in PACT-sponsored community meetings and events and are working with PACT members in the development of a student volunteer internship program for Santa Clara University Law students to provide outreach to impacted communities.
6. **Code Enforcement** -Code Enforcement recognizes that foreclosed houses, when not maintained by the bank or lender, can become an attractive nuisance and reduce the value of neighboring properties. Therefore, Code Enforcement continues to respond to resident complaints within 72 hours. Since August, Code Enforcement has completed 254 inspections, issued 51 citations, and abated 29 properties, with another six properties taken to the Appeals Hearing Board.
7. **City Social Responsibility Policy** - On December 4, 2009, the City Council approved revisions to the City's Investment Policy to add a section for Social Responsibility in relation to a financial institution's efforts toward foreclosure mitigation. Social responsibility is now an additional criterion, considered only after safety, liquidity and yield, when considering similar short-term investment instruments for the City's Investment Portfolio.
8. **City Foreclosed Properties** - Foreclosures in the City of San Jose's affordable housing loan portfolio have historically been extremely rare. Only three loans were subject to foreclosure in 2006 and 2007. More recently, beginning in November of 2008, the number of foreclosure filings and short sales began to rise. To date, there have been 16 foreclosures and one short sale, representing a loss of \$1,121,548 in loan repayments. Based on our current portfolio of 1,959 loans, the loss represents less than 1% of the total portfolio. At present, there are an additional 20 foreclosure filing notifications and 10 short sale requests pending. Not every foreclosure filing results in the loss of a home, as

homeowners are sometimes able to work out the loan with the lender or may be able to sell the home prior to the foreclosure.

In addition to the local efforts detailed above, the State and federal governments recently announced legislation and enhancements to further combat the impacts of foreclosure on families and neighborhoods.

- 1. State Pending Legislation** – Several State bills have been introduced to respond to the 87,000 Californians facing foreclosure and 500,000 who have received foreclosure notices. One of the bills, SB 401, was approved by the Legislature last week and is on the Governor's desk awaiting signature. The Governor has indicated his intention to sign the bill. This bill brings a number of areas of California tax code in line with federal law, including the provision that excludes "forgiven debt" on a principal residence from being considered taxable income. Another bill, SB 1275, mirrors many of the provisions of federal law, which requires lenders to contact a borrower prior to filing a default notice and provide them with a loan modification application. If the borrower applies, the lender must process the application prior to starting the foreclosure process. If the modification is denied, the lender must legally state in writing the reasons for denial. A third bill, SB 1588, would create a mediation program for lenders and borrowers. If approved, this program would require lenders to participate in mediation to work out a loan modification if the borrower requests a mediation hearing.

- 2. Federal Program Enhancements** - President Obama's Making Home Affordable Program initially anticipated that three to four million homeowners would be assisted under the refinance or loan modification programs. After one year of implementation, only 117,000 homeowners have received permanent loan modifications as reported by the January 2010 Making Home Affordable Program Servicer Performance Report. In response, several changes to the program were announced on March 26th, including:
 - a. FHA Refinance Option for Underwater Loans- Encourages lenders and borrowers to work together, when appropriate, to restructure debts. Incentives will be offered to lenders to write down the principal amount owed in connection with an FHA refinance.
 - b. Improvements to the Home Affordable Modification Program (HAMP) - Provides temporary assistance for unemployed homeowners while they search for re-employment. Mortgage payments will be reduced to affordable levels for a minimum of three months and up to six months for some borrowers. Lenders will be required to consider alternative modification approaches that emphasize principal reduction. Other enhancements include:
 - Clear performance timeframes for both the lender and borrower
 - Prohibition against initiation of a foreclosure referral when borrower is cooperating with the lender
 - Increased incentives to lenders

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3. **Private Lender Response** – On March 24, 2010, Bank of America (BofA) announced its plans to consider forgiveness of principal when modifying its “most severely underwater” loans, including subprime loans, if they are at least 60 days delinquent. BofA also plans to target borrowers who owe more than 120% of the value of their home and offer interest-free forgiveness on loan payments as long as the borrower remains current. BofA expects to implement this plan in May 2010 and extend this workout program until December 31, 2012. Staff contacted a local BofA mortgage lending office and was informed that this program will be by invitation only.

CONCLUSION

The City, through the ForeclosureHelp Program, continues to provide direct assistance to homeowners and tenants impacted by foreclosure in a number of approaches. We continue to work with our partners in outreach and educational efforts and to utilize the available resources to mitigate the impact of foreclosures within our communities. Staff will also continue to track changes to State and federal programs to continue to update and educate the City’s impacted families and communities.

/s/

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Director of Housing

For questions please contact Leslye Krutko, Director of Housing, at (408) 535-3851