



# Memorandum

**TO:** NEIGHBORHOOD SERVICES AND  
EDUCATION COMMITTEE

**FROM:** Leslye Krutko

**SUBJECT:** REPORT ON FORECLOSURES

**DATE:** February 24, 2009

Approved

Date

2-26-09

**COUNCIL DISTRICT:** City-Wide

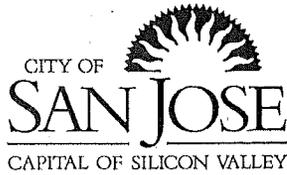
## RECOMMENDATION

It is recommended that the Neighborhood Services and Education Committee accept the status report (attached) regarding foreclosures and foreclosure prevention efforts in San Jose. Housing Department staff will make a presentation at the meeting and be available for questions.

LESLEYE KRUTKO  
Director of Housing

Attachment (1)

For questions please contact Leslye Krutko, Director of Housing, at 535-3851.



Sent to ~~Director~~ Distributed on:

FEB 23 2009  
*Memorandum*  
by City Manager's Office

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Leslye Krutko

**SUBJECT:** SEE BELOW

**DATE:** February 20, 2009

Approved

Date

2-23-09

**COUNCIL DISTRICT:** Citywide

**INFORMATION**

**SUBJECT: UPDATE ON THE STATUS OF FORECLOSURES IN SAN JOSÉ AND EFFORTS TO RESPOND TO THE FORECLOSURE CRISIS**

This memorandum provides an update on the impact of foreclosures in San Jose, and describes the City's response.

In recent months, the number of properties in San Jose subject to foreclosure has increased significantly. Although San Jose's foreclosure rate continues to be at about 1.7%-- in other words, of all the homeownership units in the City 1.7% are in some state of foreclosure-- much of the foreclosure activity is concentrated in neighborhoods in Central San Jose, East San Jose, and the southern stretch of the Monterey Highway. As a result, these neighborhoods are seriously impacted.

Based on the increased number of recorded Notices of Defaults, and the high number of adjustable mortgage loan resets that are anticipated to peak in 2011, there is concern that the number of foreclosures in San Jose will continue to rise. With each loan reset, homeowners typically experience a significant increase in their monthly mortgage payment. For many families, even those who can afford the increased payment, refinancing to decrease the mortgage to a sustainable level is not an option as falling home values result in a situation where they owe more than their house is worth.

In San Jose, we have experienced a steep drop in housing value. The median price of single family homes sold in San Jose fell from \$699,000 in December 2007 to \$420,000 in December 2008, a 39% decline. During the same time period, the median price of condominiums/townhomes sold dropped from \$452,000 to \$262,000, a 43% decline. Housing observers generally agree that this trend will continue until the market reaches a bottom in late

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2009 to early 2010. However, instead of a "V-shaped" recovery where housing prices begin to rise soon after a bottom is reached, experts predict an "L-shaped" recovery where housing prices stay depressed for some time.

Nearly everyone is impacted by the foreclosure crisis, whether they are having difficulties holding on to their homes themselves, have a friend or family member facing default or foreclosure, have vacant houses in their neighborhood, or have seen their home values fall. City employees are not immune. Many employees have expressed concern that their adjustable rate mortgages are about to reset, and fear that they will be unable to make the higher payments.

### **FORECLOSURE STATISTICS**

For the three month period between October 1 and December 31, 2008, 3,016 San Jose homes received a new foreclosure filing. Of this number, 50% (1,508) received a default notice, 25% (749) were slated for auction sale, and 25% (759) were repossessed by a bank or lender.

In total, San Jose has 3,988 homes in the foreclosure process, a figure that includes homes receiving a foreclosure filing before October 1, 2008. This is higher than the 3,016 figure indicated above for two primary reasons. First, some of the homes that were repossessed by the bank (an "REO") before October have not been resold and continue to sit on the market. Second, some of the homes received a notice of default or were subject to an auction sale before October but did not receive any subsequent filings after October, nor have they been cured of their default status. Thus, while these homes did not receive a foreclosure filing between October 1 and December 31, 2008, they nevertheless remain in the foreclosure process.

While no area of the City is immune from foreclosures, they are concentrated in certain geographic areas as illustrated by Table 1 (zip codes 95111, 95116, 95122, and 95127). In these zip codes, the rate of foreclosure filings ranges between 3.0% and 4.9% of owner-occupant households (column 3). Found primarily in East San Jose (Districts 2 and 5) near the 680/101 freeway interchange and along Highway 101 going south, these areas are experiencing foreclosure rates at two to three times the Citywide average. This is consistent with the experience of other cities throughout the nation where a high incidence of foreclosures is found in lower-income neighborhoods, where households stretched to buy homes on insufficient incomes and/or with subprime mortgages. The resulting foreclosures are often, but not always, caused by predatory lending practices targeted specifically at lower-income or minority households.

There has been an increase in the number of complaints and proactive observations by Code Enforcement Division staff about vacant and neglected houses. Between September 2008 and January 2009, Code Enforcement staff received complaints and actively identified 110 vacant houses that were in violation of the City's *Neglected Vacant House Ordinance*. Of these, 17 homes needed to be boarded up by the Code Enforcement staff. Forty-two percent were

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confirmed to be bank owned, with the remainder appearing to be in some stage of the foreclosure process. Since November 2007, Code Enforcement has inspected 415 vacant homes/structures.

**Table 1. Top 10 Zip Codes for Foreclosures  
(October 1 to December 31, 2008)**

Total Foreclosure Filings	Rate of Foreclosure Filings (% of All Households)	Rate of Foreclosure Filings (% of Owner-occupied units)
95111 (353)	95122 (2.7%)	95116 (4.8%)
95127 (330)	95111 (2.5%)	95122 (4.6%)
95122 (318)	95127 (2.1%)	95111 (3.8%)
95123 (273)	95116 (2.1%)	95127, 95110 (3.0%)
95116 (248)	95121 (2.0%)	95121 (2.6%)
95121 (182)	95148 (1.6%)	95133 (2.3%)
95148 (174)	95138 (1.5%)	95112 (2.2%)
95112 (119)	95133 (1.4%)	95123, 95148 (1.9%)
95136 (106)	95123 (1.3%)	95138 (1.7%)
95132 (100)	95139, 95110 (1.2%)	95139 (1.5%)

**FORECLOSURE RESPONSE**

Federal Efforts

In October, former President Bush announced the new federal HOPE for Homeowners (H4H) program, which was designed to help troubled homeowners refinance their unsustainable mortgage payments. Any mortgage that was originated prior to January 1, 2008 is eligible under this program. However, the maximum loan amount of \$550,440 and the requirement that borrowers have at least ten percent equity in their homes has limited its applicability in San Jose. Unfortunately, most of the families facing foreclosure have lost significant value in their homes and cannot meet the 90% Loan to Value requirement. And because many of these borrowers also had second mortgages, they found that, while their first mortgage lender was willing to work with them, the second mortgage holder was not because they were positioned to take the full impact of the loss.

On February 18<sup>th</sup>, President Obama announced the Homeowner Affordability and Stability Plan, which is intended to help up to seven to nine million families restructure or refinance their mortgages to avoid foreclosure. It is important to note that this Plan does not help families who are already facing foreclosure. Rather, it helps responsible homeowners who have kept current on their obligations, but who find themselves either “upside down,” where they owe more than their house is worth, or facing interest rate adjustments that they cannot afford.

The key components of this Plan are:

- (1) Assisting four to five million homeowners to refinance their mortgages, reducing their payments to affordable levels. Homeowners who qualify are those who have conforming loans that are owned or guaranteed by Fannie Mae or Freddie Mac.
- (2) Creating a \$75 Billion "Homeowner Stability Initiative" that reduces the amount homeowners owe each month to sustainable levels. Program components include: reducing interest rates to ensure that mortgage payments don't exceed 38% of a borrower's income; providing financial incentives to servicers for modifying loans; providing financial incentives to borrowers to stay current on their loans; and creating an insurance fund to discourage lenders from foreclosing now over fears that home prices will continue to fall. Additionally, as part of this initiative, the Treasury will develop uniform guidance for loan modifications across the mortgage industry. Other measures include: increased oversight and reporting, allowing judicial modifications of mortgages during bankruptcy, \$1.5 billion in funding for relocation and other forms of assistance to renters displaced by foreclosure, \$2 billion in Neighborhood Stabilization funding, and improvements to the Hope for Homeowners Program and Other FHA Programs to modify and refinance loans for at-risk borrowers.
- (3) Strengthening confidence in Fannie Mae and Freddie Mac by increasing investment through, among other things: purchasing mortgage-backed securities, increasing the size of their retained mortgage portfolios and allowable debt, and support to State Housing Finance Agencies.

#### State Efforts

The State has taken action to help those households who have fallen behind on their payments. Last summer, the State legislature enacted SB 1137 to curb the number of foreclosures. Among other provisions, this new law: (1) requires lenders to contact homeowners who have fallen behind on their payments to explore options for avoiding foreclosure at least 30 days prior to filing a notice of default; (2) gives residential tenants who reside in a foreclosed home 60 days notice to vacate the property; and (3) requires that owners of foreclosed properties maintain the property exterior. This legislation applies to loans made to borrowers between January 1, 2003 and December 31, 2007; the vast majority of foreclosures have involved loans that were taken out during this period. Code Enforcement staff report that the vast majority of mortgage lenders are adhering to the SB 1137 requirement to maintain the property exterior.

In November, Governor Schwarzenegger announced a plan called "Keeping Californians in Their Homes," which included the following provisions:

- (1) A 90-day stay of the foreclosure process for each owner-occupied home with a first mortgage in default;
- (2) A Safe Harbor for lenders allowing them to be exempted from the 90-day stay procedure if they can document that they have an aggressive loan modification in place; and

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- (3) A loan modification model that is based on a 38% debt-to-income ratio.

Among the many bills considered by the Legislature as part of the just approved State budget package was SBX27 (Corbett). This bill establishes a 90-day moratorium on foreclosures for homes where the first mortgage was recorded between January 1, 2003 and January 1, 2008. There is an exception to this rule for loans that are held by a servicer that has put in place a State-approved loan modification program that has a 38% debt to income ratio, and that provides some combination of interest rate reductions, loan term extensions, deferral of unpaid principal, reduction in principal, or other factors as determined by the lender's state regulator. There is concern by some advocates that this bill actually weakens requirements as it isn't as stringent as a similar Federal Deposit Insurance Corporation program that many lenders have already implemented.

City staff continues to actively review and analyze State and federal legislative efforts that address the foreclosure crisis, as well as any programs that are proposed to help families save their homes and protect renters impacted by foreclosure.

#### Bank Efforts

In October 2008, major banks, including Chase (Washington Mutual), Bank of America (Countrywide), and Wells Fargo (Wachovia), announced their participation in the Governor's Keeping Californians in Their Homes Plan, agreeing to a 90-day moratorium on foreclosures of owner-occupied residences. On February 11<sup>th</sup>, major banks announced that they would extend this moratorium to allow the Obama Administration to release detailed guidelines for the Homeowner Affordability and Stability Plan.

Locally, banks are increasing their staffing dedicated to performing loan modifications, and have agreed to participate in foreclosure prevention and resource fairs.

#### Local Efforts

The City is stepping up its efforts to address foreclosures in order to aggressively respond to the increase in activity. Following is a discussion of the actions the City has taken or is taking.

- (1) **Assigned a Point Person**-- Sandra Murillo, Housing Policy and Planning Administrator and CDBG Program Manager, has been assigned as the point person for foreclosures, and is working with other City staff to coordinate the City's efforts. Staff from the Housing Department, Strong Neighborhood Initiative (SNI), and Code Enforcement Division make up the team formed to assist with policy analysis, neighborhood information, and outreach coordination. Key to this coordination effort is the participation of the Neighborhood Housing Services of Silicon Valley (NHSSV), which is funded by the City

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and Redevelopment Agency to provide neighborhood outreach and foreclosure counseling to San Jose residents.

- (2) **Convened a Foreclosure Prevention Task Force**-- The City has been working with Don't Borrow Trouble (DBT), a consortium of fair housing and legal services groups and real estate and mortgage representatives that was established to provide education, outreach, and referral services on predatory lending issues. A Foreclosure Prevention Task Force (FPTF) has been convened to expand the DBT services to include coordinating existing resources and developing a comprehensive approach for the delivery of foreclosure mitigation services to families and communities. The Task Force will identify existing services spread throughout the City and County and create easy-access repositories of multi-lingual information and services for homeowners in foreclosure or at risk of foreclosure. In addition to the current DBT member organizations, participation on the Task Force has been expanded to include representatives from local community advocacy groups, the faith community, family counseling services, and education.

The Task Force has adopted a comprehensive strategy that includes the following features:

- a. **Prevention**-- Prevention works to preserve homeownership by providing early intervention and addressing financial crises in the earliest possible stages. Services provided include financial literacy, legal and credit counseling, and foreclosure prevention counseling.
- b. **Intervention**-- Intervention efforts assist families who are in the process of foreclosure and require more intense foreclosure prevention counseling and loan modification assistance.
- c. **Re-Stabilization**-- Re-Stabilization includes a host of social services that assist family stabilization during and after the prevention and intervention stages. These services include a relocation strategy if homeownership is unsustainable, family counseling, and short-term emergency financial assistance.
- d. **Stabilization**-- In addition to family stability, focused efforts will be made to address neighborhood stabilization. Several SNI neighborhoods have been impacted by the large number of vacant homes in their communities, which can result in increased neighborhood blight, including deteriorated landscaping, vandalism, and crime and gang activity. It is important to ensure that the positive impact the SNI and Code Enforcement efforts have made to these communities are not reversed. An effort to re-occupy vacant homes through re-sale helps mitigate neighborhood deterioration and re-stabilizes communities that have been adversely impacted by this foreclosure crisis.

To assist in the stabilization efforts, the City will implement the \$5.6 million Housing and Economic Recovery Act 2008-Neighborhood Stabilization Program (NSP), which was approved by the U.S. Department of Housing and Urban

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Development (HUD) on February 2, 2009. At the present time, the City is awaiting the HUD contract so it can begin to implement its efforts. Once funding is announced, the City intends to apply for additional funding through the State NSP program and the additional federal NSP funding available through the 2009 federal Economic Recovery Package.

(3) **Assessed Needs--** To facilitate this effort, staff has met with a number of stakeholders and organizations to inventory available resources and to complete a needs assessment to identify community needs and resource gaps. Within Santa Clara County, there are four HUD-approved nonprofit agencies with a total of ten HUD-certified Foreclosure Prevention Counselors that provide foreclosure prevention counseling. The most critical needs identified were:

- Additional HUD-certified counselors to address the increased demand
- Outreach and Marketing, including information and referral resources
- Emergency short-term financial assistance to homeowners/renters
- Family counseling resources

On January 29<sup>th</sup>, 28 individuals representing various stakeholder organizations, including the County and other local jurisdictions, met to develop a plan to address these needs. Immediate outcomes include:

- a. **Volunteers--** The availability of over 100 Volunteers experienced in loan intake and packaging will supplement the ten certified foreclosure prevention counselors now available. This assistance will enable the certified counselors to focus on the more critical foreclosure prevention counseling and loan modification assistance.
- b. **Certified Counselors--** The Santa Clara County Association of Realtors, Project Sentinel, and Neighborhood Housing Services of Silicon Valley are working to bring HUD Foreclosure Prevention Counseling training to Santa Clara County to increase the number of HUD-certified Counselors.
- c. **Outreach and Marketing--** Multi-lingual neighborhood outreach activities, focused on the neighborhoods that are hardest hit by foreclosures, will be coordinated by SNI staff in conjunction with NHSSV by engaging the community at the neighborhood, faith, and education levels. Marketing activities coordinated by City staff will include public service announcements, information and referral flyers, a dedicated telephone line, and an interactive website. Additionally, a survey has been developed to reach out to church members in impacted areas to gather input on the impact of foreclosures.
- d. **Foreclosure Prevention Fair--** The second Foreclosure Prevention Fair is now scheduled for April 23<sup>rd</sup>, with details to follow. This Fair will bring together lenders and borrowers in one location to perform loan modifications or workouts, with the intent that a newly underwritten mortgage will allow the family or individual to make affordable monthly payments and allow them to keep their homes. The City's first foreclosure fair held in August 2008 drew large crowds.

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- e. **Lenders' Meeting**—The Task Force is investigating the potential for a “Lenders’ Meeting,” where major banks would meet to discuss opportunities to cooperate and collaborate, especially in the timely processing of loan modification approvals.

Other outcomes with initial discussions and plan of actions are:

- a. **Funding**-- Identify current sources of Emergency Financial Assistance offered by nonprofits and local government, and create a simplified referral process. Research other funding opportunities.
- b. **Simplified Referral Process**-- Collaborate with family counseling services and create a simplified referral process.

In addition to these actions, City staff is preparing a workshop for City staff concerned about their housing situation to answer questions and help educate them about their options. Information regarding this workshop will be forthcoming.

### CONCLUSION

It is expected, given the nature of subprime, exotic, and adjustable-rate lending during the housing boom, that foreclosures may continue through 2011. The current economy, where job loss is increasing and retirement funds are decreasing, is adding to the crisis. This spillover effect may compound the impact of foreclosures in San Jose by dragging down a previously unaffected group of homeowners. Additionally, we are awaiting the inevitability of a new wave of potential foreclosures as interest rates reset higher in the next year or two.

The City is working with its partners to address foreclosures in San Jose, with the goal of preventing foreclosures and maintaining family and neighborhood stability.

  
LESLYE KRUTKO  
Director of Housing

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