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RESTORING THE AMERICAN DREAM: SOLUTIONS TO PREDATORY LENDING AND THE FORECLOSURE CRISIS

FIELD HEARING

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

ON

SOLUTIONS TO PREDATORY LENDING AND THE FORECLOSURE CRISIS

MONDAY, APRIL 7, 2008

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C O N T E N T S

MONDAY, APRIL 7, 2008

RESTORING THE AMERICAN DREAM: SOLUTIONS TO PREDATORY LENDING AND THE FORECLOSURE CRISIS

MONDAY, APRIL 7, 2008

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Philadelphia, PA.

The Committee met at 10:17 a.m., in Ceremonial Courtroom, 601 Market Street, Hon. Christopher Dodd (Chairman of the Committee) presiding.

OPENING STATEMENT OF CHAIRMAN CHRISTOPHER J. DODD

Chairman DODD. This hearing will come to order. Let me tell you what a pleasure it is to be in Philadelphia.

I want to thank Senator Bob Casey. He's the first member of the banking committee to encourage a hearing on this issue. As a new member of this Senate and as a new Member of this Committee, it's a wonderful invitation to receive, and I am pleased that he asked me to do this. We need to do this more often, quite candidly. I don't think we could miss this opportunity and listen to the people in our major areas around the country and listening to people go through their ideas that they bring to these debates and discussions. So I'm very grateful of my colleague and for his suggestion of being here this morning.

This Committee is holding a hearing entitled "Restoring the American Dream: Solutions to Predatory Lending and the Foreclosure Crisis." This is the latest in a number of hearings held by our committee starting in February of 2007 to address the issue of predatory lending and the foreclosure crisis that it has intended. The committee is holding this hearing at the request, as I said, of Senator Bob Casey. Senator Casey has been a focused and effective leader on the committee and dealing with the issue of predatory lending and the foreclosure prevention. He has been an active participant in every hearing we've held on the subject matter. He's asked very good and tough questions of regulators in the industry and consumer groups that have come before us. As a result, he has developed a deep and thorough understanding of the issue that brings us together this morning.

Senator Casey, along with a number of our colleagues, introduced the first antipredatory lending deal in his Congress. I commend him for it.

I incorporated much of the legislation that Bob Casey has suggested when I introduced our own bill that Senator Casey quickly corresponded to. I am grateful to him for that.

As part of his commitment, he has asked me to convene a hearing this morning in the city of Philadelphia. It could not be more timely to have this kind of a gathering. We are deeply involved, as many of you know, on the floor of the U.S. Senate with a housing proposal.

Last week, and again this week, the Senate is considering the Foreclosure Prevention Act of 2008. It's a bipartisan package that was put together with the assistance of Senator Casey. He's been a very strong component of additional funds for foreclosure prevention counseling, as I have been.

This legislation falls short of a small key title. I'm glad we are able to get started on this. The bill includes $100 million in counseling funds. That is very important. The bill includes an expansion and modernization of the Federal Housing Administration Program which will create a real alternative to the abusive subprime lending that so many working families have turned to in the past over the years that have greatly contributed to the crisis that we're in today.

The legislation both includes $1.6 billion for increased mortgage revenue by the authority for our states. The bill does not do enough to help the millions of Americans who are facing foreclosure every single day. It families here in Philadelphia. That has increased over 17 percent in just 1 year.

Very broadly speaking, we have three challenges in this area that we need to address.

First, we need to address the kind of abusive lending that lead to this terrible problem in our country. In other words, we need to stop predatory lending. The Federal Reserve Board, after much prodding by this committee, has proposed a new regulation—not as strong as I would like, but they seem to be moving. Senator Casey and I have also introduced legislation not indicated. Although, this is not our most pressing problem today. In fact, very little subprime is available today.

Second, and more immediately, we need to help communities and community leaders, like Mayor Nutter, deal with the outcome of the foreclosure crisis. Included in our legislation on the floor of the U.S. Senate is $4 billion in emergency community development block land funding which will go to state and local governments to acquire and resell foreclosed and abandoned homes. That is important because we don't need more supply on the market.

We have an over-supply, quite candidly. Every time you leave abandoned properties out there, you are increasing that supply, not to mention what it does to your police and fire and social services all are compromised every time a lender with a foreclosed property goes on the books.

Not to mention the adjoining properties which also suffer. The people tell me, "It's not my fault. Why are you helping out that individual with the foreclosed property?" If you're a neighbor living on that block and you have a neighbor that has a foreclosed property, the value of your home has just gone down by at least 1 percent on the very day that foreclosure goes forward. Not to mention crime rates going up and continuing problems in that neighborhood.

There is a contamination that occurs when this happens. It goes beyond the most impacted family, and that is the one losing their home. Frankly, that's not enough and that comes up short.

Third and most importantly, we need to help people tolerate the interest of foreclosure to keep their homes. It's all well and good to provide funds to help pick up the pieces after the catastrophe, but we need to do more in the area of prevention, so we have less of a need for clean up after the fact.

To that end, I have been working intensively with my colleagues, including Senator Bob Casey on what we call Hope For Homeowners Act of 2008. I am very pleased to state that there is a new fund at the Federal Housing Administration to ensure new, affordable mortgages for distressed homeowners. These FHA mortgages would refinance the old troubled loans at significant discounts. The new loans would be no larger than the borrowers could afford to pay and no more than 90 percent of the current value of their homes.

This form is similar to the one laid out by the Federal Reserve Chairman Bernanke in his speech several weeks ago. He noted that creating a new equity for underwater borrowers may be a more effective way to prevent foreclosures. Lenders and investors will have to take a serious so-called haircut to participate in this program.

In return, they receive more than what they would recover in foreclosure. Borrowers get to keep their homes but they must share the newly paid equity from the FHA program to help offset possible losses. Only owner occupants would be eligible for this new program, and only those who clearly cannot afford their current mortgages. There will be no speculators in this program.

In addition to helping homeowners and the communities in which they live, this program would help stabilize capital markets, put a floor under the housing prices, and get capital flowing once again in this critical area. Later will have another hearing the following week as well. Then we will work to bring legislation to a vote, both in the community and on the floor in the U.S. Senate.

Representative Barney Frank of Massachusetts and Chair of the Financial Services Committee in the House of Representatives is having a similar legislation in the House of Representatives. I understand that some people oppose this kind of a program on the grounds that we should not reward people who acted irresponsibly. As we will hear today, as we've seen from numerous other hearings that we have held in Washington, many victims of predatory lending were trying to act responsibly. They were led badly astray by unscrupulous mortgage brokers and lenders.

In fact, *The Wall Street Journal* did a study which concluded that 61 percent of the subprime borrowers it reviewed had high enough credit scores to qualify for prime loans at the time they were talking to subprime mortgages. We know that these brokers portrayed themselves as trusted advisors for the unsuspecting borrowers while steering these borrowers into higher cost loans in exchange for higher commissions.

Lenders and brokers gave these borrowers—many on fixed incomes—mortgages with exploding interest rate payments that they knew these borrowers could never ever afford at the fully indexed cost. These are the homeowners that we are seeking to help, and why we're here today in Philadelphia. We seek to help them because it's the right thing to do. It never should have happened in the first place.

In the words of Franklin Roosevelt, "When your neighbor's house is burning, you don't charge him for the use of your garden hose." You simply lend it to him so that he can take that hose and contain the fire spreading throughout the neighborhood.

We are not acting for their sakes alone. Today, hundreds and thousands of our neighbors' homes are figuratively burning in many ways. And like any fire, the damage threatens to spread. Every home that goes into foreclosure lowers the value of the other homes on the block by at least $2,000 immediately. It produces property tax collections, as I mentioned, which level and always leaves students in public schools struggling to meet their needs. Fire, police, and all these other services are also adversely affected. We owe it to ourselves and our community, as well as our homeowners.

We must act to put this fire out, if we can, and get our country heading in the right direction in this critical area. That is what I hope to do in the coming weeks and while we are here in Philadelphia this morning to listen to some good, solid advice from people at the local level, and how Bob Casey and I can do a better job of bringing closure to this problem and moving it positively and aggressively to address the underlying issues that we face.

With that, I again thank Senator Casey for the invitation to be here this morning. It is the very first hearing I've held as a chairman of this committee outside of Washington D.C. and in the city of Philadelphia. So I thank Bob Casey and all of you for being here this morning.

STATEMENT OF SENATOR ROBERT P. CASEY

Senator CASEY. Chairman Dodd, I want to thank you for your presence here and for bringing us together on such a critical issue for the country and for, of course, our economy, but especially for our families. I think the fact that we're here in Philadelphia and outside of Washington is indicative to the kind of leadership that Senator Dodd has demonstrated as Chairman of the Banking, Housing, and Urban Affairs Committee. That is a title that should remind all of us that the title speaks to the broad agenda of that committee. It's not just about banking. It's about housing and urban affairs. Certainly here in Philadelphia, we understand and appreciate that.

This is not the first time that Senator Dodd has shown great leadership on a critical issue. Whether it's examining a complex on financial issues or whether it's in our housing market and what our families are struggling through or whether it's holding regulators accountable.

Time and again, he has shown the kind of leadership on this committee and we greatly appreciate it. It's not his first visit to the city of Philadelphia. He's been here a number of times over the years, but we're especially grateful that he's here today in this capacity as chairman of this committee, but also as someone who has been, whether he's Chairman or not, would be deeply involved in and concerned about what has happened to the families in Pennsylvania and his home state of Connecticut and of course, other states across the country.

What we are talking about here is something very basic. We are talking about the ultimate betrayal of families by people with power and money and influence. Instead of entering into a transaction that their family can afford, too often unscrupulous, unregulated players in the market have led families down a path of ruin financially.

We are going to talk a good bit today about what has happened. We are also going to talk about a solution on how to help families and how to keep people in their homes and about extension, protecting and strengthening and nurturing the neighborhoods. If we do that, not only will the families and neighborhoods be better off, our economy will be that much stronger.

My principal obligation here is to make sure that we introduce our witnesses and to hear from them and then we do some questioning. We will also admit a statement for the record of this hearing. I think it's important to point out before I make introduction, that this isn't just about individual families in one particular neighborhood or another. This is about the ripple effect that Senator Dodd mentioned and what this has caused for our entire economy and even the world economy.

In the world economy, our credit markets are suffering in large measure because of what has happened in our housing market. So if there are people out there who think that this doesn't affect me and my mortgage, this doesn't affect my family, this doesn't directly affect my neighborhood, you're wrong. It does. One of the reasons why our economy is moving in the wrong direction is because of the ripple effect which has been caused by the housing market.

Let me get to our witnesses. First of all, I want to do a quick summary of each of our witnesses before they testify and mention their background. No one in here needs a biographic sketch of Mayor Michael Nutter. It's critical that we remind ourselves not just where he is now as mayor, but where he came from. He worked as a member of the City Council for so many years here in the city, standing up for the workers, standing up for the neighborhoods.

Being an effective legislator and a community activist has allowed him to come into the office of mayor with a broad and deep understanding of the city. He has already demonstrated in the time that he has been mayor, how much he cares about this city and fights for the people of this city. He's been on the phone with me a number of times and has visited us in Washington. I know he does the same for the legislators and Governor in Harrisburg in making sure that we are aware of the challenges the City faces.

I can't tell you how much I appreciate the way he has worked with us on housing, on issues that pertain to the challenges that people in Philadelphia face.

Mayor, we are grateful to have you here as a witness, but especially for the work you've done already in this city and we're looking forward to hearing your testimony.

I just want to briefly introduce our other witnesses before we hear from the mayor: Brian Hudson from the Pennsylvania Housing Finance Agency, both Executive Director and CEO. I hope I got those titles right. I have known Brian for a long time. When I was in the State Treasury, he was a member of that board. He pretty much ran every meeting. To say that he's an expert in housing finance, not just across the state, but he's recognized across the country. To say that would be an understatement.

He's been a tremendous advocate for the state of Pennsylvania. Especially for the people most affected by housing and how we finance housing. He has also learned over the years to work with lenders and other players in the market to make sure that the state and Federal Government work together with our lenders, realtors, families, all of the players in the market, so to speak, to provide safe, decent, affordable housing. So we're grateful for Brian's presence here today.

Dr. Ira Goldstein, Director of Policy and Information Services for the Reinvestment Fund.

Doctor, we appreciate your presence here and your scholarships over many years in this arena. We know that the Reinvestment Fund is a community development organization. It focuses on tiered housing and equal opportunity. I know that Dr. Goldstein will tell us today about the work done on the study called "Loss Values: A Study of Predatory Lending in Philadelphia." We can learn a lot today, not just about what's happened here in Philadelphia through that study, an explanation of some of the challenges here in the city, but what's happening here is happening across the country. What we learn in Philly we can apply to other places across the country. We are grateful, Doctor, for your presence here today.

Finally, we have someone who has taken the time to bear witness to the difficult challenges that families face, an actual homeowner. She is going to give us testimony about her own situation. Yajaira Cruz Rivera is here with us today.

Yajaira, we appreciate your presence here today and your courage to come forward. It would be easier to keep these things to yourself and to think only about your difficulties that you encountered. You're here as a witness, and by your presence and by your testimony, you are going help other homeowners. You certainly help us better understand the challenges that family homeowners face.

When you look across the landscape, whether it's homeowners or whether it's particular mortgages from lenders, we want to make sure that those mortgages that were the subject of any kind of predatory, dishonest marketing tactics, we highlight that and we learn from that. So we're grateful for the presence of our witnesses.

I just want to commend a couple of organizations that helped bring this hearing together today. ACORN, of course. They are known all over the nation, all over the world. The signs in the back indicate that. We see a lot of red and white across the city and across the country. We are grateful for ACORN's work, the Philadelphia Unemployment Project who helped us through community legal services, the Philadelphia Foreclosure Crisis Committee, and finally, The Philadelphia Legal Assistance. That organization, as well as the others, we're grateful for the work that has been done.

I have to turn the microphone back to our chairman. I did notice in the second row here, Counsel Marian Casco, who I have known for many years. Marian Casco is a member of City Council and sounded the alarm on predatory lending a long time ago. It was back many years ago when I was in state government, when I started in state government a decade ago. We are grateful for her advocacy and her presence here today.

Mr. Chairman, I turn the microphone back over to you.

Chairman DODD. Thank you very much, Senator.

Mayor, again, we are honored that you are here this morning. I was looking at some of the numbers in Philadelphia over the past several weeks with Senator Casey. Sometimes these numbers can just glaze over the eyes. Sometimes the numbers, the volume of them, are beyond understanding. We are talking about millions of people, two-and-a-half, three million people going into foreclosure. Think of it in these terms, every single day 7,000 to 8,000 people enter into foreclosure. That's every single day. So today before the day ends another 7,000 or 8,000 of our fellow citizens will find themselves being drawn into the vortex of losing the most important asset outside their families that they have in the world.

Every single day that we delay, until we do anything about trying to stop this from happening, more and more people are adversely affected and the ripple effect that Senator Casey pointed out is affected. In my little state of Connecticut, Bridgeport, Connecticut, there are 6,000 foreclosures in a city of 100,000 people. What that will mean in the city of Bridgeport with that many properties being vacant, not being sold, boarded up, destroyed in many ways and so severely affected that they will never get back on their feet again. If you think about it today and tomorrow as Bob Casey and I can finally convince our colleagues and others to do the next step and that is to stop this from happening, in addition to trying to help those who fall into that situation, before the day ends another 7,000 to 8,000 people in America will be suffering from a loss of that cause. And it will happen again tomorrow and the next day and the day after. You can fill a stadium in less than a week with the number of Americans who will be drawn into this, and they will never recover from it, given the adverse effects by it. These are real people every day whose lives may be permanently disrupted because we failed to act and step in and stop this from going on.

STATEMENT OF MICHAEL NUTTER, MAYOR, PHILADELPHIA, PENNSYLVANIA

Mayor NUTTER. Good morning, Chairman Dodd and Senator Casey. My name is Michael Nutter, the Mayor of the city of Philadelphia. Before going into my prepared remarks, I have to say, Senator Dodd, thank you so very much for bringing this committee to Philadelphia. I recognized, as you pointed out, the significance and the importance of bringing a committee out of Washington to hear from the public. And so it is a great honor to have you here in our city and certainly a personal honor for myself. I have never testified to a U.S. Senate committee.

More importantly, the citizens of Philadelphia, Pennsylvania, and I think the United States of America will benefit as a result of this kind of hearing, certainly on a personal level. Please always feel free to come back. The great work of this committee and your personal presence means a tremendous amount to thousands throughout Philadelphia, and I thank you very much. Your depth and understanding, your articulation in your opening remarks on the issue clearly displays a welcomed knowledge that I am sure will be quite convincing to many of your colleagues back in Washington.

Senator Casey, I thank you again. We have had numerous opportunities, as you pointed out, to work on a variety of issues and your leadership in talking to the Chair and having this committee working with my staff, to make sure that we were in proper order was very, very helpful, and I do appreciate it.

It is an honor to be on this panel with those who are really experts in the field. I get to as mayor talk about a great deal of things and work with those who know about these issues firsthand.

We have a great panel here this morning. Let me read into the record my remarks, but I did want to share some personal feelings.

I applaud this Senate committee on Banking, Housing and Urban Affairs and Chairman Dodd for holding this hearing to address the mortgage foreclosure issue. I thank both Senators Dodd and Casey for their leadership in this area, the current problem in Philadelphia.

In 2007, there were 6,200 foreclosure filings in Philadelphia. This was an increase of 18 percent over 2006. The city's foreclosure rate is currently in the 17-to-18 percent range. The amount of foreclosures varies significantly across neighborhoods. However, with some neighborhoods such as West Oak Lane, East Mt. Airy, Southwest Philadelphia experiencing significant higher rates. Approximately 400 Sheriff's Sales are scheduled each month in our city. This crisis is already hurting the city of Philadelphia by disturbing our economy and by depressing real estate prices. It is also affecting city tax revenues.

The city of Philadelphia is committed to dealing with this crisis. I will be proposing putting additional funds into our fiscal year '09 budget to provide relief to homeowners facing foreclosure.

As Senator Casey has pointed out, I'll be working with Counsel Marian Casco, and you are absolutely right, Councilwoman, while I was still on City Council, it was by far the leading advocate on this issue, sounded the alarm much earlier than virtually anyone has recognized.

We plan to use the funds in the following ways: Outreach, through an expanded foreclosure hotline, additional counseling services to help homeowners negotiate payment plans and work out predatory loans, and expanded support for legal services to help homeowners negotiate better mortgage terms and respond to sheriff sale lawsuits.

In addition, the City is committed to developing refinancing tools and products such as the state's HERO, Homeowner's Equity Recovery Opportunity loan programs, which targets families with bad credit who cannot refinance at an affordable interest rate. Philadelphia has committed $1 million to the program, which will leverage $10 million in PHFA resources and $5 million from PNC Bank. We are also considering expanding the moratorium on Sheriff Sales just instituted by the Sheriff.

As you can see, the City is stepping up to the plate to address this crisis. The Commonwealth of Pennsylvania, under the leadership of Governor Rendell and PHFA Director Brian Hudson, has also done a great job of providing additional resources. However, we need the Federal Government to do its part.

Additional funding is needed to enable cities to maintain the purchased abandoned properties, to support housing counseling and legal assistance, and to provide bankruptcy relief to our citizens by allowing judges to modify mortgages.

I am pleased to work with you on this important issue. We stand ready to help address this critical crisis, and I thank the Members of this Committee for the incredible opportunity to publicly speak on one of the most damaging crises that this city, this state, and this nation has faced in decades. Thank you very much.

Chairman DODD. Thank you very much, Mayor. Any other documentation, by the way, that you have and you would like to put in as part of this record, we would like to include that as well.

I am going to go on to a couple of questions. How do you see this matter developing since what you suggested to me is not confined in one area. Maybe more so in some than others, but nevertheless, it's sweeping across the city.

Mayor NUTTER. Chairman, you're absolutely correct. We will provide additional backup materials to the committee.

Chairman DODD. Mr. Hudson, you had quite an introduction from the Senator here. We expect you to come up with all the answers now, of course.

STATEMENT OF BRIAN A. HUDSON, SENIOR, EXECUTIVE DIRECTOR, PENNSYLVANIA HOUSING FINANCE AGENCY

Mr. HUDSON. Thank you, Mr. Chairman, it's a pleasure being here.

Senator Casey, it's good seeing you again. I do applaud your efforts for affordable housing. Thank you for holding this hearing here in Philadelphia.

I'm Brian Hudson, Executive Director and Chief Executive Officer for the Pennsylvania Housing Finance Agency. I have as part of my written testimony more details in the program that I want to touch on briefly.

I want to go back 25 years when the Commonwealth created a program known as Homeowners' Emergency Mortgage Assistance Program, HEMAP. HEMAP is entirely funded by the state legislature. It saved over 40,000 homes from foreclosure. The average HEMAP loan is $10,000, the average income of the borrower, and the average loan is around $38,000. HEMAP is not designed to deal with this type of crisis.

In 2007, in October or November, we launched two products. We thought that two were needed. REAL, Refinance to an Affordable Loan, and HERO, as the Mayor just mentioned, Homeowners' Equity Recovery Opportunity. The REAL refinance project deals with those homeowners who are just beginning to slip in their adjustable rate mortgage and are one and no more than 2 months behind. They can go up to a $120,000 income and 100 percent market value for that property. It has to be the primary resident. That's for a fast track. We originate that in product with about 70 or 80 lenders throughout the Commonwealth.

The more difficult product is HERO, the Homeowners' Equity Recovery Opportunity. This is to help those homeowners who are truly upside down in their mortgage and they owe the lender more than the property is valued. We do this program in-house at the Pennsylvania Housing Finance Agency. We work on behalf of the homeowner, negotiating with lenders to take a write-down and to assign that property to them.

As the Mayor mentioned, we did work with the city of Philadelphia. PHFA has committed $10 million to both of these programs so far. We know that we have over 200,000 subprime mortgages in the state of Pennsylvania. Of those 200,000, there are about 16 percent delinquent. Another subsection of that 200,000 are 77,000 adjustable mortgages, or ARMS.

They are approximately 22.5 percent delinquent. We have been trying to get at those individuals and help them.

In 2003, we did a foreclosure study along with the Department of Banking. We developed a program to deal with foreclosure, which included an intensive counseling network. We have over 100 counseling agencies in this network now. In an effort to define for the council, we think that a key component is to provide education to the homeowner to understand what they're doing.

We think that education for the homeowners is the key. We applaud your efforts to provide resources to Pennsylvanians, to continue to provide education for the homeowners that are involved. You've heard testimony from the homeowners where the credit scores are not the sole determining factor. We are in the situation prior to getting in the default situation. We want to make sure that we help the homeowner become part of that. We expect to help about 1,500 homeowners over the next 6 months through our REAL and our HERO programs.

Again, we are servicing these loans here in Pennsylvania and not in another state. We have the ability to modify loans. Our stony block is dealing with the servicers who are worried about taking on the liability from the investors. You have to get them to the table and be willing to take that write-down. We are negotiating on behalf of the homeowner. That is the primary issue. The servicers are reluctant or unable to agree to take a write-down. An example I use is a woman we helped. She owed $126,000. The property is worth $60,000. We negotiated on her behalf and got her into a loan for about $45,000. Again, using that extensive counseling effort and education which is a mandatory requirement for the program, we are hoping to stand up for these efforts. Currently, we are financing our efforts through the sale of taxable bonds. I applaud the efforts of your committee, Mr. Chairman, and also Chairman Barney Franks's committee to use tax exempt financing. It could reduce our mortgage rate by almost a full percentage by using the tax exempt findings. Again, I thank you for the opportunity, and I applaud your efforts and I am here to support the efforts in helping this crisis.

Chairman DODD. Thank you. You are very knowledgeable. Obviously, some of the things you are proving are successful here. We need to convince our colleagues on a national level. It's worked well here in Pennsylvania, these efforts to keep people in their homes. There's no reason why we can't be clear enough to come up with our ideas on a national level.

I just have to quickly point out, when you talked about the special liability of those who purchased these mortgages—in a sense, I feel it's almost—feel it's a greater potential liability if you don't do something about it.

If I'm sitting here purchasing one of these items, and it's less than what you told me it's going to be worth, I'd rather you get something for it than nothing for it. I'm more likely to sue you if I get zero. I'm not happy about the fact that I'm looking at less than you told me I was going to get, but I'd rather get something in return for your efforts. So I applaud the efforts you made.

Mayor, I know you have to run on this. I know you have a busy schedule.

Senator Casey, do you have any questions for the Mayor?

Senator CASEY. Mayor, before you go, I want to thank you for the time spent on this.

Mayor NUTTER. My pleasure.

Senator CASEY. I wanted to get a sense from you of the dimensions of this in the city and how we can be most helpful. I know you touched on it, but before you go, can you touch on it?

Mayor NUTTER. Thank you. And thank you for the opportunity. As you know, we're not shy here in Philadelphia. I'll go back to one of the items that Brian Hudson touched on and I did briefly in my testimony. The housing counseling services, we believe, have proved by far to be most helpful. Our ability to get out as early as possible to meet with these homeowners and get this situation under control, I believe, is one of the most critical elements that we can provide, having that counseling service spread out in a citywide fashion.

There is a creeping phenomenon to this, as Chairman Dodd talked about, of the impact of the foreclosed homes on the one block. It's obviously starting to depress our property values and starting to impact our tax revenues as well. We cannot over emphasize the need for housing counseling services. I believe we have the framework and some of the structure in place to make it happen. We also need more assistance, certainly from the legal community to the extent that we can encourage more of our law firms to lend us lawyers.

There is a capacity issue here that we are increasingly concerned about. As the Senator said, we know the demand side. There are a lot of people who need services. We are increasingly concerned about our ability to respond both on the counseling side and the lawyers available. So help and support on just those two specific areas would just be tremendous in terms of responding to this problem in Philadelphia.

As Brian said, last, Philadelphia may seem to some to be possibly not in as bad shape as other cities, but there is increasingly through the course of this year when those readjustments come, Philly is going to get hit. We are trying to get ahead of that wave before it runs us over. The kindness of this hearing and your articulation on the issues, it is really critical for us. The natural resources that expand our counseling programs is most important at the moment.

Chairman DODD. I have two points, Mayor. One is, that counseling is critical. Let me just say for those who are gathering, I normally don't recognize the audience but ACORN is a fabulous organization. I have hearings in my own state. I just had an informal gathering a week or so ago. And because it was a nonprofit organization, we are going to step in and inform people. I want to recognize the people involved and applaud you.

Last year the Federal Government had $42 million total in nationwide counseling. As a result, Senator Bond from Missouri and I offered a bill and got $180 million for counseling services nationwide. I would have preferred 200 million but I had to compromise down to 100 million in the present bill we have before us. I was told by the organization that would be enough to help the county. So Bob and I will be trying to get that. Obviously, I was listening to the creative things that you have done here in the state of Pennsylvania to make a difference.

I was in Reading last night and I was very impressed with the group of people that I met in Reading. I might be missing the numbers a little bit, but it is something like 60 homes off the roles and remortgaging. I think they had four failures out of 362, or something like that, in the city of Reading in an effort to restore, rehabilitate and get these properties back on the role, contributing to the community and obviously improving the conditions.

Mayor, my question is, can you do this alone or do you need the help of the Federal Government? Does the Federal Government need to step up here or are you able to handle this on your own in Philadelphia or with the resources in the state?

Mayor NUTTER. No and yes. We cannot do this alone. Yes, we need the Federal Government to step up. These are the kinds of issues and challenges that clearly require Federal intervention. There is no question about it, Mr. Chairman. I think our responsibility is to carry that message here in Philadelphia, through you, and back to Washington.

I think it goes back to something you said at the start of your opening statement. Sometimes some of us get blinded by numbers. I like numbers as much as the next person, but when you talk about 6,000 or 7,000 people or families a day going into foreclosure somewhere here in the United States of America, I think we lose sight sometimes. These are real people, real lives, and real challenges right on the ground. This is the opportunity for the Federal Government, quite frankly, to help people better understand how relevant the Federal Government can be in the lives of regular citizens. It's not some far-away place in Washington D.C. that somehow just sends money around all over the place.

These are real challenges. The next step, unfortunately, for some of these homeowners today could be the streets of Philadelphia, or Reading, or Allentown, or some other city anywhere else in the United States of America. They will be on the streets. That's what we're talking about here. So, yes, we need the Federal support. We cannot, as a city, cover this issue all by ourselves. It is impossible.

Chairman DODD. We had a hearing last week and Bob and I listened to the circumstances around those 96 hours through March 13th and March 16th in the Federal Government, including the Federal reserve, that stepped in to the potential for bankruptcy of a major investment bank, Bear Stearns. And it's a major part of the merge that occurred between Bear Stearns and JP Morgan Chase.

Looking at it, they might have some other alternatives. I argue that they probably did. Although, it's a point that Bob and I are concerned about. The point is, $30 billion of your money is thrown in to back up that proposal. So you could end up not having the kind of bankruptcy that could have had a ripple effect on the economy. There is $30 billion on the line. I hope the assets of Bear Stearns is going to be worth more than that and we will come out of this OK. We won't know that for a number of years.

My point is, if we can put out as much as $30 billion of your money on this kind of a deal, can't we get the same kind of commitment when it comes to 8,000 people every day losing their homes?

Mayor NUTTER. Mr. Chairman, I would only suggest that there are probably a few Mr. Bears and possibly a few Mrs. Stearns here in Philadelphia who need the same kind of help.

Chairman DODD. Mayor, you're great. Thank you.

Doctor, I'm happy you could be here today.

STATEMENT OF IRA GOLDSTEIN, PH.D., DIRECTOR, POLICY AND INFORMATION SERVICES, THE REINVESTMENT FUND

Mr. GOLDSTEIN. Thank you. Good morning, Senators. My name is Ira Goldstein, and I'm the Director of Policy and Information Services for the Reinvestment Fund. I am honored to come before you today and talk about the results of the research that we have done on predatory lending in Philadelphia and the mortgage foreclosure issues.

The organization of which I am part, TRF, is a national leader in the financing of neighborhood revitalization. We have been around since 1985 and invested $700 million in the creation and preservation of affordable housing, community facilities, commercial real estate, and renewable energy. There are various aspects of the housing market.

Our work in the areas of mortgage lending, foreclosure and predatory lending has been supported by grants from foundations as well as governmental entities. The research we do has both a strong, objective data-based component, as well as a systematic qualitative component.

Today, I was asked to provide some background on this study "Lost Values" that we completed a while back. I will do that, and I will also try to bring you up to date on the numbers in Philadelphia.

Just to draw your attention to that map over there, that is a map of the city of Philadelphia. It is the most recently available data that we have on mortgage foreclosures. They are displayed over the property values in the city of Philadelphia. You will see that those foreclosures, each represented by over 6,000 dots on that map, represents the household that is at risk.

Chairman DODD. I'm closer than most people here. Give me some indication of what you're talking about on the map. I don't see the dots and I have my glasses on.

Mr. GOLDSTEIN. Sure. This is a map of the City. We are sitting right here to give the orientation. The more darkly shaded areas are the higher priced areas in Philadelphia. There are, when you get a chance to stand up and walk over, you will see there are well over 6,000 dots here representing the 6,000 foreclosures in Philadelphia. You will see that they are not singularly concentrated in the lowest priced areas. In fact, they are actually disproportionate in the more modest priced areas.

Somebody mentioned the area of West Oak Lane, very highly concentrated areas like that. When you have a moment, I encourage you to take a look at it.

The results that we are going to talk about today derive from a study of over 2,200 randomly selected properties in Philadelphia and 13,000 more in very specific neighborhoods in Philadelphia because of a set of characteristics that they had. We gathered information through very systematic interviews with people from all sectors of the mortgage lending process, from brokers to borrowers, to lenders, to servicers, to securities, to attorneys who represent borrowers, and lenders and Sheriffs, as well as law enforcement people at the Federal, state and/or levels.

The quantitative data that we used, the hard numbers, allowed us to inspect and quantify the complete mortgage and sale transaction history for each selected property. That's over 15,000 properties in Philadelphia.

In the written testimony you will see a written sample. Based on a thorough review of the literature and our interviews, we systematically coded patterns of transactions that we thought were indicative of predatory lending.

For example, we coded the presence of "rapid refinancing" which we defined as two or more subprime mortgages of increasing amounts within a 1-year period.

We also coded for the presence of a mortgage that likely exceeded the value of the property. We also coded for the presence of a mortgage that represented a historic pattern. It really goes back to the early 1990s. That is, in Philadelphia and many other cities, particularly the more modest income people were using these small finance home equity kind of loans to meet their credit needs for home repair, medical bills, and so forth. They would get these $5,000, $6,000 loans.

In 1993, that pattern changed dramatically to the point where instead of borrowing these $5,000 or $6,000 amounts, they were really driven more into these very expensive, much larger loans, subprime loans in main. So really, to get a full historic picture of how we ended up where we are right now, you don't look at the last couple of years. You really have to go back to the early or mid-1990s.

Essentially, what we learn is that each of those measures is imperfect but several together would be more or less indicative of predatory lending. We found that if you were to take a randomly selected property out of the city of Philadelphia, about 3 percent of those properties would have a pattern that was indicative of predatory lending. It doesn't sound like much, although, I would say that if we had any kind of consumer products that went bad, 3 percent of the time we would be taking them off the market.

If we looked at homes that had more than a couple mortgages placed against them, that 3 percent rises to 14. There are some neighborhoods, like the one I pointed out on the map, where more than 30 percent of the homes manifest patterns of predatory lending. Not every instance of predatory lending ends up in foreclosure and not every foreclosure is a result of predatory lending, as we know, but they do often go together.

As the Mayor pointed out, our foreclosure numbers right now are about 6,200. They really dipped after that 2003 time period by the surge since 2005. The chart of that is included in my written testimony. We have increased over 18 percent over the last couple years. That was against another increase the year before. What we found is that the frequency to predatory lending was much greater again in the foreclosing properties than randomly selected. Roughly 28 percent of the properties subject to foreclosure did manifest a pattern that suggested that predatory lending was in the background.

With that, I would say that what we know about predatory lending, frankly, as you know, you've held more hearings than I even know about, there is no definition of what it is. Since we finished that, the landscape has changed quite a bit. What I would like to do is bring you up to date a little bit on some localized numbers since you're out here in the field.

In terms of subprime lending, the most recent available data only takes us up to 2006. That does show a dramatic rise in Philadelphia, from 2004 to 2006. In 2004, purchases were about 14.5 percent and in 2006 it was up to 32 percent. More importantly though, with that rise, there has been a real decrease in the FHA lending activity. I know the FHA isn't really something that we don't pay very much attention to. It's very important. Here in the city of Philadelphia, in 2003, FHA loans comprised about 15 percent of the purchases. They are now down to just under 6 percent in 2006. I believed they continued to decline in 2007. What you see in many places, a drop in FHA was taken by the rise in subprime.

We itemize the estimated aggregated value of real estate that has been mortgaged in any given year. In Philadelphia, that is about 13.5 percent. So if you say what is all the housing in Philadelphia worth, and how much was mortgaged in 2006, about 13.5 percent. That, we believe, is a measure of risk. It's an enhanced risk over that which we see in the Commonwealth of Pennsylvania which was about 9.5 percent.

I would say that in terms of just the last year, what do we know about servicing? I would say that servicing suggests that one of the years that we didn't pay a whole lot of attention to has been the run up of delinquencies in the subprime ARM area. It's something that people are well aware of. It's gathered a lot of attention, but the numbers that we suggest are much lower and are brought up in that delinquency rate, which is now quite significant. It's three or four times more than what it was a few years ago.

What I would like to do is make a few final comments about some of the policy issues that have been asked over the last several months.

First, we have housing counseling. It's my first-hand observation that housing counselors try very hard to keep up with both the changes in the lending and servicing industries and the extraordinary growth in volume of demand for their services.

One of the things that PHFA has done a very good job in, and I would really encourage the Federal Government to take a look at, is the ability to tie the increase of funding to some enhanced measures of outcomes of banks. It would be a darn shame to put that much money in counseling and not have it have any effect and have us learn better about what works and what doesn't work.

Last, it is important to remember when comparing Pennsylvania's experience to other states, we do have HEMAP, which is a nationally recognized program.

Each year, PHFA staff and counselors review thousands of applications from Pennsylvania at the brink of mortgage foreclosure. More than 1,500 people are assisted each year. Those homeowners who get assistance from PHFA never reach foreclosure. If they were, Pennsylvania's numbers would be far worse.

PHFA should be commended for some novel approaches to working with people who have adjustable rate mortgages that are becoming unafforded through its HERO and REAL programs.

Finally, the Legislature is moving on several bills that will strengthen the regulatory environment and enhance consumer protection for homeowners in Pennsylvania.

Thank you for inviting me to testify and I welcome your questions.

Chairman DODD. Thank you. I am sure the Senator has many questions. Let's first turn to our next witness, Mrs. Yajaira Cruz Rivera. First of all, as Senator Casey said, the gentlemen to your left obviously work at this every day. But now we get to actually hear from someone who is going through this. It takes a lot of courage, in my view, to stand up in a public setting and talk about personal circumstances.

I want you to know that every person in this room and every person that's watching this are deeply grateful to you because there are literally thousands of people who are living what you're going through and whose names we will never know. They will be familiar with you. What you're going through is what they are going through.

You will give us an opportunity to understand this in a way it is hard to understand when we are just talking about numbers and blocks and neighborhoods and blocks and efforts and titles of programs. But there is someone named Yajaira Cruz Rivera who is going through a situation and is willing to share it. That means a great deal and I want you to know that.

STATEMENT OF YAJAIRA CRUZ RIVERA, PHILADELPHIA, PENNSYLVANIA

Ms. CRUZ RIVERA. Thank you for having me. Thank you to Chairman Dodd, Senator Casey and ACORN. Without the joint effort from all of you plus myself and other Philadelphians that I represent, we wouldn't be here today.

My situation is the following: In 2005, my husband and I purchased our home. We budgeted carefully and we did our homework. We went to a reputable broker. Before we even set out, we knew what the amount was that we wanted to spend on a home. We didn't want to go over our means. We have children and we are responsible people. We did a lot of budgeting for unforeseen things to occur, for example, a loss of a job, an illness, or a death. We mapped everything out even before we set out on this next endeavor in our lives together.

After searching, we settled in a home. We sat down with the broker and we told him everything we did want and did not want. We did not want an ARM rate. We did not want a flexible rate. That was not in our best interest or our family's interest. We wanted a conventional mortgage at a standard price for the length of the time of our mortgage. We went to the closing table and we signed on the dotted line.

At these closings, there are 200 documents, per se.

They highlight everything that comforts you at that time or that you want to hear at that time. We did not have disclosure on the mortgage pretense. I think that needs to be said. There are disclosures for every legal parameter. We need to do more on the end of the mortgage disclosures.

Ten days later after closing, we got a new set of papers that we did not sign and that we haven't seen before. They said that the projection of your mortgage monthly rate was an error. The calculations were wrong. The interest rate is not, in fact, 7 percent. The interest rate is now 10.95. Your monthly mortgage will not be $975 a month that you settled on and signed previously. Your new mortgage, in fact, is $1,235.

Now, at this point we're in the home. Our children are running around the home, picking out their rooms, picking out palettes for the colors on the walls. We have girls, needless to say. Our family has come over, brought gifts and so forth. OK. What do we do?

We sat at the dinner table my husband and I, and we said, we can do this. We could do some budgeting and do this. There is something wrong when the initial draft and agreement has not been honored. My husband is a very reserved man and he doesn't like to shake the tree down, per se. He said, "I know that in 2004, the interests were low. We are in 2005, this has to be a result of that."

We buckled down. We said, "We can do this." We could afford $1,235 a month. The rate adjusted again. Our original draft said conventional 7 percent. The words conventional, adjustable rate are not interchangeable. How do they do that? It's amazing.

In 2007, we were faced with another uprising in our interest rate. Now, we're paying $1,671 a month. Needless to say, my husband at that time and currently still, is working 16 hours a day, 6 days a week. He's not allowed to go to work on Sundays; if not, he would. He's committed to our family and home.

This event did not come about because we were irresponsible or did not pay. We consistently made payments. I'm not going to be held on breach of contract, not on my hands. Not when my family would be facing displacement. It's myself, my husband, four children and a dog. I will give you that picture.

So $1,671 with a full house, how do we do that? We cut—my husband doesn't eat lunch, per se. He can wait. We have to really rebudget our lifestyles and sacrifice a lot of things that people take for granted and we took for granted. How do you continually live like that? You cannot. It will take a toll on you. Sooner or later it will, and it did. We started making partial payments and late payments. Not ever sending no payment. We did. Again, this is in the interest of our family and the well being of our future.

My principal at closing was $106,000. Our principal as I stand here today is $129,000 in less than 7 years. They charge us for attorney fees. That has been tacked to my principal. Usually, that is not the practice. In my case, it has been the practice. After months of negotiation, because we tried to negotiate, the mortgage service was not very sympathetic. They told us that we must have known what we were getting into when you got into the loan. We said everything that we didn't want, and we signed on to the things that we did want.

What happened to us is pure, plain fraud. There is no other way to say it. Like I said prior, our first draft was never honored. If that had been the case, my family wouldn't be here today. That might be the percentage of the families facing foreclosure today. Not all—I cannot speak absolutely—but there are a good many people with responsibility that do the right thing.

Then we sought out help. I saw ACORN on the news. I said, "I have to get on board with an organization and make these numbers really count. I have all this information, all this work for a year already and I wasn't getting anywhere. Corporate America wasn't doing anything for me. I had to take a bigger picture, a bigger chunk, and speak on behalf of the Philadelphians and not just myself. It's difficult to be naked or nude financially in the eye of the public. Nobody wants to do it but it's not only me on the line. It's 6,237 homes on the line. With a family of four you're looking at 32,000 people that will be displaced.

As this gentleman said earlier, where are we going to go? We are going to go on the streets that are already pledged with the homeless as it is. These families are not at fault and these families should not be here. Who is at fault are Corporate America and subprime lenders.

I did enter into modification. It was a consideration of modification, not even a modification. My lender has stipulated that I am on a grace period of 6 months to make payments of not the original draft. My payments are $1,284 a month. If I make those on time for the next 6 months, that will be my fixed rate. So what happened to the first draft which I signed on the line and bought? That has been forgotten at this point. We signed the paperwork and we sent in our payments, certified funds, which I've always done. Three weeks after that date I got a sheriff's sale posted on my porch simply because the law's litigation department did not convey information to the collection department. That just shows you the irresponsibility of these services. It's not done. To them, we are numbers. We're not real people.

Philadelphia is a comfortable place to live. My family settled here in 1981, and I visited other states but I always come back here. This is my home. Our communities are getting destroyed, and no one seems to care or even want to budge. The only ones that are profiting are the investors, the banks, and the redevelopment that is happening here and across the country.

For each foreclosure on a block, property values go down, which we have already mentioned and spoke about. The loans, for example, in the city are going to cost us $345 million for lost production. What is going to happen to our schools?

It will produce the ripple effect. The neighborhoods get destroyed. The schools get destroyed. Taxes are being displaced, or what I would like to say, recirculated to a different end because the neighborhoods are not benefiting from them, not at all.

On March 25th, Ms. Jones, who was also supposed to be here today to testify but she had an unforeseen family event, and I hosted a meeting at the House of Prayer Episcopal Church to discuss this crisis. Over 100 neighbors came out. Councilman Jones and other members of Council came out as well. We all agreed that the City should do all it could to prove what has happened here. It would be a shame to experience something like Cleveland and Detroit has.

I think that if everyone steps in at this point—we merit to be salvaged. This city has always been a great city and it shouldn't be destroyed because of greedy predatory lenders. They are misguiding and flat out lying to the consumers. We think that maybe these lenders are waiting for the government to bail them out of the mess they created. Honestly, they shouldn't. They shouldn't because they have gained a large profit at the beginning by what they have done to the population.

I think the issue at hand needs to be corrected, not just corrected with a Band-Aid. They want to refinance and modify less than 1 percent of these subprime loans. That's a slap in the face for the consumer and a Band-Aid over the issue. That is not going to help. We need real life solutions. Not for now, but for the future. With that said, we need a streamlined approach for fixing the Nation that's in crisis and not only Philadelphia. The projection has been, as this gentleman said on my left, 2.2 million homes have been set for foreclosure and it's rising everyday as we sit here. We need to be people of action.

We cannot wait for a solitary loss, litigation staff person to pull out the abacus for each and every individual case. Our neighborhoods will never recover from this unless we handle this crisis. ACORN and the city of Philadelphia will not sit idly by and see our neighborhoods destroyed. As evidenced by the actions of City Council and the Sheriff, Philadelphia will fight back and hold lenders accountable for their actions. We will require them to fix these failing loans. We cannot wait for solutions to come from the state or Federal level either, or else we may suffer the same fate as many of the other cities have already been devastated by this crisis.

We have acted now and we expect and hope that other cities will join us. We also hope that other states will join us and demand answers from those who caused the housing collapse that we all now face.

Chairman DODD. Thank you very, very much. Ms. Cruz Rivera, that was very good testimony. Let me quickly ask both of you, I may not have seen the details on this issue of the legislation. I wondered if you have any thoughts or comments on this idea of the FHA to ensure itself that it's doing a similar kind of act.

Mr. HUDSON. One of the things I mentioned in part of my testimony is that you do need a reserve fund. We have attempted to do some of that on a limited basis through our agency, but the numbers need to be a lot larger. Our concern is the 90 percent versus a higher LTV. For instance, we have been doing 95 percent of LTV for 25 years. Our average credit score is around 700. But we think there should be some flexibility there. Not just driven by a credit score of the homeowner. We do a little higher LTV there and build-up that as well.

I know FHA hasn't seen a lot of activity, and we think part of that is because there is not enough flexibility built into it. While our homeowner's credit score is maybe below 600, the credit score in our program would be one of the last deciding factors. We are looking at the homeowner's ability to pay. If we can improve this, this solution would be back on solid foot. We are following the bill.

Chairman DODD. I would be very interested to look at and see any ideas. We have forgotten about this. I'd be very interested to take a look at this. We would like to move this.

Mr. HUDSON. Absolutely, Mr. Chairman. A number of states, including ourselves, have started a refinance program. We've already attended to 100 or so homeowners and we are looking to help over 1,500 over the next 6 months. That may not fit in with the criteria now, but we would like to work at that.

Chairman DODD. In fact, the second wave is coming around this summer. There is a larger wave coming.

Senator CASEY. First of all, I wanted to highlight some of Ms. Cruz's testimony. I was looking at the prepared remarks. When I looked at your testimony as well as Ms. Jones' testimony, she wasn't able to be with us today, I was struck by a couple of statements of which I think bring us back to reality for us. Especially for people who work on this issue in Washington. You said, and I am quoting from your testimony, "I budgeted carefully. We did our homework." Then just after 10 days they jacked your rate up. Later you talked about how you read the modifications over and over to find the hidden language.

Ms. Jones talked about in her testimony, "It is my home I hope to live in the rest of my life. I grew up in South Philadelphia. I was a block captain. I couldn't get the person on the phone who I was dealing with. ACORN showed me where in my loan adjustable rate language was tucked into my loan." She said later, "I don't want a handout, I just want what I was promised."

This shows who you are and how hard you've worked and how this transaction is about your hopes and your dreams and your family and your future. Just the condition of that with the tricks and the deception and the lies and the hidden language, the information in the text is outrageous. This is America. These people made money. This wasn't just them being careless. These people made money off of this by tricking you. It's outrageous.

You bring to us, not just a reality of how high your payments were and how they were jacked up unfairly and deceptively, but you also tell who you are and we appreciate that because there are a lot of people in Washington who have a lot of money to get their point across. They have lobbyists and insiders helping them everyday.

You bring to us the reality of the situation and we are grateful for that. We are going to do everything we can. We may not get the votes to what we need, but we are going to continue to work on it. Senator Dodd has been working on this night and day, month after month after month not to mention years, but especially in the current crisis we went through. I want you to know how much we appreciate your testimony today as well as Dr. Goldstein and Mr. Hudson for bringing your expertise.

I guess I have one global question for all three of you, but especially for those who are working with the mechanics of this. Senator Dodd has set forth a whole series of important proposals. The other side, I won't mention who they are, but there's another side to the Senate, who have been cooperative on some things and blocking other things.

If there is one or two points that you could leave with us in terms of what you think we really have to get done if you had all the votes, what are one or two elements that you think we need to focus on?

Counseling, of course, is one of them. Senator Dodd was giving us that summary that we go from 42 million and now we have 180 done. We have another 280 million for 2008. Tell me about what you think, one or two basic things that you want to follow up on from today.

Mr. HUDSON. Obviously, I feel that counseling is very important. The other point is, that the reserve fund is on target because we need that. It would be a loss if it was to be covered somehow. The other point that I think is very important is the AMP and the ability to refinance using taxes and bonds. That's critical for many programs. So you have the counseling, you have the reserve funds, and you have the tax re-fi. I think we can make a difference.

Chairman DODD. That's a very good point. We included the 1.6 billion in mortgage revenue files. It's pending on the floor of the Senate.

The 1.6 billion is not out of thin air. With some calculations, that number would be a pretty adequate number to help us out with this situation. Do you have disagreement with that number?

Mr. HUDSON. Not necessarily, no.

Mr. GOLDSTEIN. I think the counseling is obviously very important. I think that being able to make sure that the counseling is done properly and that it's done with all the resources that somebody needs to have is a very important element. I also think that the issue of liability is very important and who ends up being liable for what pieces of the transactions.

There are a lot of actors in all of this and it starts often with a very small conversation between a borrower and a broker. Obviously, the borrower is going to be helping out, and the borrower is the one who ends up losing their home. The brokers oftentimes though walk away completely unscathed. That is a problem when you have ⅔ of the transactions done by these mortgage brokers. It really works all the way through—for the people who buy these mortgages as well. They are making an investment.

I think that for the observation in our interviews and what we learn in part is that what happens throughout a transaction is that there is a review of that transaction, but there is a view of the form of it rather than the substance of it. People look at these mortgages and see that they all have appraisals. Nobody is really taking a look to see if the person down the road has done it to make sure that it is done properly. Eventually, if someone is going to have responsibility for something they need to be able to rely on it. Oftentimes, it's the buyers that are setting the terms. The buyers will say, "I want to buy a bundle of mortgages that I want to look a particular way." If you're going to be responsible for setting the terms, if you're going to set that out, there is going to be some responsibility that goes along with it.

Second, I think the one thing that we did learn about the way this financial market works these days is that anything can be priced. If there is a liability that's attached to something, it will be priced. So by the time they get to the fourth or the fifth or the sixth buyer down the road, it might be, if there is going to be some liability attached to it, it might be the price that reflects that a little bit.

Again, I think it's important to recognize that if you're going to set the terms by virtue of what you say you're going to purchase, then you need to accept the responsibility for what is under those terms. What I do think is interesting is the issues of the rating agencies. There really does need to be some responsibility there too. Frankly, our organization is a lending institution at our core. For example, if I had a travel voucher that's unsigned, it gets kicked back.

These rating agencies are looking at bundles of transactions. They are not really looking at them with the same kind of scrutiny that they would look at with personal things or anything like that. Again, it's the presence of the document rather than the accuracy or the reasons for missing the document that they're waiting for.

Mr. HUDSON. I agree with you. As the prices started to hit, a number of opportunists started to buy these mortgages at deep discount prices. The market will determine its own level. With regard to the scrutiny and oversight, we at PHFA receive a number of calls about our portfolio from investors.

Chairman DODD. And you don't see any threat to that falling backwards?

Mr. HUDSON. I think there needs to be an understanding about that. You will get some push back on that for sure. It used to be that way before.

Chairman DODD. Subprime lending can be very valuable. Adjustable rate mortgages are very valuable instruments under certain circumstances. We are developing this certain notion. Without subprime lending, they certainly would never qualify. I don't know if you want to comment on this but I always try to make that point. If it weren't for subprime lending, people don't qualify for prime lending. They never even think about getting a loan.

Mr. HUDSON. I agree. When we got our foreclosures statewide to close in 2003, we realized our state had a high concentration of subprime lenders. Our study was not to eliminate that because it does sort of value old-fashioned lending. There should be some consideration for that. I think what it evolved into are buying process, and shops, greed, and laziness when old-fashioned underwriting went out the window. How many loans can you process in a day, a month, a week to get those commission rates? That's happened. We need to get back to basics. Subprime lending does sort of value those who are in that credit situation to buildup to a certain level. We need though to get back to basics and offer that product in some sort of fashion.

Mr. GOLDSTEIN. I would agree. I think it forms again, I think the idea of being about to keep track of what to do. One of the folks that we interviewed was a former loan officer. He said the scrutiny that he was under, not so much for making loans that went into delinquency, but for not making enough loans that went into delinquency was great. What they said was, subprime lenders, if you're not doing that, you're not pushing the product hard enough.

Chairman DODD. I will repeat the statistic. Sixty-one percent of people who have subprime loans would and should qualify for prime loans.

Ms. CRUZ RIVERA. On that note, I believe that there is a need for every step of this business venture. There are people who qualify for them. That's where the disclosure comes from. Those people should be stepping up and knowing what they're getting into. Do not give a product to a consumer who did not want that product to begin with. You dealt that card to them. No. Explain things to them. Tell them, you don't qualify for this. There are other products we have along these lines. Let them choose where to put their money or where their funds lay.

Chairman DODD. That's steering. That's called steering. Like I said a minute ago, most of these deals are done in about eight or 10 weeks. All the people on that front end got compensated and they moved on and got rid of the product, then they run to the next one.

It's very exciting, what you've done. Could you once again briefly tell me about the REAL?

Mr. HUDSON. The REAL program is actually for those homeowners who——

Senator DODD. What does it stand for again?

Mr. HUDSON. Refinance through affordable loan. It's actually for those homeowners who are just beginning to slip in their mortgage. They are no more than 2 months delinquent. They are looking at another adjustable rate hike. We originate that product to a network of about eight lenders.

Chairman DODD. Is there a web page or something?

Mr. HUDSON. Yes. Our web page is *www.phfa.org*.

Chairman DODD. And they can find out about that program?

Mr. HUDSON. Absolutely. Also, 1–800–822–1174 is the phone number. REAL is designed to help those homeowners just beginning to slip. We know that there has been a number of hits that they have searched around to find. That's why credit scores, they are not the determining factor. Our determining factor is, can we improve the financial situation of that homeowner.

HERO, which is the homeowners' equity recovery, is designed for homeowners who are upside down in their mortgages. They owe the lender more than the property is valued. We will actually do an appraisal and negotiate with the lenders on behalf of the homeowner. This is where we need help in bringing those services and investors to the table. We call all over the Nation trying to find out where loans are serviced and get someone to address it.

Many times, we simply say, "Look, foreclosure is going to cost you more. Take the write down, sign the loan to us, and we'll service it in the house. We've dedicated five million to each program. We're just beginning to do our intensive advertising that was the result of the foreclosure litigation on a nationwide basis. So we are going to really have to get started and target the consumer and say don't be embarrassed. A lot of consumers are embarrassed by the document and are not going to come forward.

We are training our counselors what to look for. Is this a REAL candidate or is this a HERO candidate? We've hired five staff people to handle HERO alone in-house. We've mailed out 3,000 applications on a statewide basis and we have 500 loans under review right now for the HERO program.

Chairman DODD. It's a national problem. For the first time in years, I want to say the Great Depression, it seems like that long ago, the percentage of homes in this country who have the debt that exceeds the equity. That's happened at an incredibly fast rate. I know this has been the first time since the Great Depression that where the home values have declined. That's not happened since the 1930s.

Senator CASEY. Mr. Chairman, thank you very much. We appreciate the testimony by the witnesses. We've learned a lot. Thank you.

Chairman DODD. We would like to thank you. You have been very helpful, and we'd like to stay in touch and follow up. I think we can go and take a step nationally and make a difference.

Thank you very much and thank you, Senator Casey, once again. This would not have happened without Senator Bob Casey, Senator of Pennsylvania. Thank you to Banking, Housing and Urban Affairs for inviting me to this City of Brotherly Love. Thank you.

[Whereupon, at 11:50 a.m., the hearing was concluded.]

[Prepared statements and additional material supplied for the record follow:]

Testimony of Michael A. Nutter
Before the Senate Committee on Banking, Housing and Urban Affairs
April 6, 2008

My name is Michael Nutter and I am the Mayor of Philadelphia – which I believe the next census will show is still the fifth largest city in the country. I applaud the Senate Committee on Banking, Housing, and Urban Affairs and Chairman Dodd for holding this hearing to address the mortgage foreclosure issue, and I thank Senators Dodd and Casey for their leadership in this area.

The Current Problem in Philadelphia:

In 2007, there were 6,200 foreclosure filings in Philadelphia. This was an increase of 18% over 2006. The City's foreclosure rate is currently 17 – 18%. The amount of foreclosure varies significantly across neighborhoods, however, with some neighborhoods such as West Oak Lane; East Mt. Airy; Southwest Philadelphia experiencing significantly higher rates. Approximately 400 Sheriff's Sales are scheduled each month in our City. This crisis is already hurting the City of Philadelphia by disturbing our economy and by depressing real estate prices. It is also affecting City tax revenues.

Current Activities to Address Foreclosure Crisis and to Prevent Foreclosures:

The City of Philadelphia is committed to dealing with this crisis. I will be proposing putting additional funds into our FY 09 budget to provide relief to homeowners facing foreclosure. Funds will be used for the following activities:

Outreach, through an expanded foreclosure hotline, additional counseling services to help homeowners negotiate payment plans and work out predatory loans, and expanded support for legal services to help homeowners negotiate better mortgage terms and respond to sheriff sale lawsuits.

In addition, the City is committed to developing refinancing tools and products such as the state's HERO (Homeowner's Equity Recovery Opportunity) Loan Program, which targets families with bad credit who cannot refinance at an affordable interest rate. Philadelphia has committed $1 million to the program, which will leverage $10 million in PHFA resources and $5 million from PNC Bank.

We are also considering expanding the moratorium on Sheriff Sales just instituted by the Sheriff.

Need for Federal Assistance:

As you can see, the City is stepping up to the plate to address this crisis. The Commonwealth of Pennsylvania, under the leadership of Governor Rendell and PHFA Director Brian Hudson, has also done a great job of providing additional resources.

However, we need the Federal government to do its part. Additional funding is needed to enable cities to maintain and purchase abandoned properties, to support housing counseling and legal assistance, and to provide bankruptcy relief to our citizens by allowing judges to modify mortgages.

I am pleased to work with Senator Casey on this important issue and stand ready to help him address this critical issue, and I thank the members of this Committee for their attention to this critical issue.

Statement
By

Brian A. Hudson, Sr.
Executive Director & CEO
Pennsylvania Housing Finance Agency

before the

Banking, Housing and Urban Affairs Committee
of the
Senate of the United States

April 7, 2008

Good morning and thank you for the invitation to meet with you today. I am Brian Hudson, the Pennsylvania Housing Finance Agency's Executive Director and Chief Executive Officer.

PHFA is the Commonwealth's leading finance organization for affordable homes and rental apartments. It was created by the state legislature in 1972. Its core mission is to finance affordable apartments and homes at minimal expense to Commonwealth taxpayers through the issuance of securities. Statewide, the Agency has provided nine billion dollars of funding for 126,000 homes and 80,000 apartments.

PHFA does not receive a general appropriation from the Commonwealth for its programs or operations, with the exception of the Homeowners' Emergency Mortgage Assistance Program (HEMAP), a foreclosure prevention effort, which is the primary focus of my presentation today.

Act 91 of 1983 authorized PHFA to develop the Homeowners' Emergency Mortgage Assistance Program to help certain homeowners who were in danger of losing their homes to foreclosure. This change in PHFA's statute was brought about by an early 80's recession which led to a large number of foreclosures, particularly in the southwestern part of the state.

HEMAP prevents mortgage foreclosures resulting from defaults caused by circumstances beyond a homeowner's control. It provides loans to bring delinquent mortgage payments current and may also provide continuing help with mortgage payments. Total assistance cannot exceed 24 months.

The Program has been very successful. It has saved 40,000 families from foreclosure by providing over $416 million in loans. Over 19,000 loans have been paid in full and HEMAP has received over $234 million in principal and interest repayments from homeowners who have benefited from the program. These repayments are recycled into new HEMAP loans, assisting additional Pennsylvanians. State appropriations have totaled $211.5 million. The average loan to a distressed homeowner is $10,400; much less than the $35,000 it costs to complete an FHA foreclosure action. Additionally, it does not consider the impact of foreclosures on families, neighborhoods, communities, as well as mortgagors.

Generally, the program works as follows: If someone with a mortgage in the Commonwealth becomes 60 days or more delinquent, before foreclosing, lenders are required to send an "Act 91" Notice informing the homeowner of the HEMAP program and directions on how to apply.

After receiving the Notice, a homeowner has 30 days to have a face-to-face meeting with a consumer credit counseling agency, which then has 30 days from that date to get the application to PHFA. Eighty-four counseling agencies throughout the state provide this service.

Counseling agencies are under contract with PHFA to prepare applications for HEMAP loans. Their job is to help homeowners present the most complete and accurate applications regarding their financial circumstances. They also counsel homeowners on financial matters and spending habits and often serve as negotiators between homeowners, mortgage lenders and other creditors in forbearance negotiations.

Upon receipt of the application, the Agency has 60 days to render a decision of eligibility. If an application is made in a timely manner, mortgagors are required to halt any foreclosure action until PHFA has rendered a decision.

The following eligibility criteria must be met to obtain HEMAP loan assistance:

- Homeowners must be at least 60 days delinquent on at least one of their mortgages. If a homeowner has more than one mortgage, not all mortgages need to be delinquent. However, no more than two mortgages can receive HEMAP assistance.

- The home must be located in Pennsylvania and the homeowner must reside in the home.

- The home must be a one or two-family residence.

- By statute, mortgage loans insured by the Federal Housing Administration under Title II of the National Housing Act <u>are not</u> eligible.

- HEMAP loans cannot exceed $60,000 or 24 months of payments.

- HEMAP loans can be in no worse than a third lien position.

- Homeowners must be suffering financial hardship due to circumstances beyond their control which renders them unable to correct the delinquency within a reasonable period of time--loss of employment from layoffs or plant closings, serious medical problems and spousal abandonment are typical circumstances.

- Homeowners must be able to demonstrate that they have a reasonable prospect of resuming normal mortgage payments within 24 months and paying off the mortgage by maturity. Job skills, employment history, efforts at retraining, etc., are all relevant factors that the Agency will consider in determining whether there is a reasonable prospect of applicants' being able to resume making full mortgage payments within 24 months.

If approved, a homeowner can receive up to 24 months of loan disbursements. Mortgage payments are made by HEMAP directly to the lender on the homeowner's behalf. PHFA assistance is in the form of a mortgage loan. The

HEMAP interest rate is statutorily set at nine percent. However, interest does not accrue until the homeowner is financially able to start repayment based on a formula established by statute.

If denied a HEMAP loan, the homeowner has 15 days to appeal the decision. This appeal process is not part of the law but rather was instituted by the Agency to provide applicants with a second opportunity to resolve misunderstandings. A lender may continue the foreclosure action during the appeal process.

New Initiatives to assist Homeowners with Sub-prime Mortgages

In August of 2004, PHFA and the PA Department of Banking released a report on lending practices in Monroe County, Pennsylvania, which was being hit especially hard by foreclosures. It was determined that this county, which is adjacent to New York City, was being targeted with questionable marketing, lending and appraisal tactics. The Agency's experience in Monroe County provided PHFA with a "leg up" on averting widespread foreclosures in the Commonwealth. An outgrowth of PHFA's involvement in Monroe County was a statewide counseling network established and paid for by PHFA to provide free counseling to anyone attempting to purchase a home. That counseling network has been in place for four years. Additionally, the Agency has proposed legislation that will provide it with a data base of foreclosure actions that are being initiated in the Commonwealth at the very start of the process so that trouble spots in the future can be detected early. Also, the Banking Department has proposed changes to its regulations and several statutes to better control mortgage lending in the Commonwealth.

To address the current mortgage foreclosure threat in the Commonwealth brought about by sub-prime and abusive lending practices, PHFA has developed two programs: **Re**finance to an **A**ffordable **L**oan (REAL) and the **H**omeowners **E**quity **R**ecovery **O**pportunity (HERO). Explanations of their operations are below. Both programs are funded through the sale of taxable securities. Additionally, PHFA has set aside $10 million for a loss reserve fund. PNC Bank has also loaned PHFA $5 million at a below-market interest rate for 15 years to assist in this region of the state. Philadelphia has also provided PHFA with $1 million for a loss reserve fund targeted to help PHFA assist residents of the city. Discussions are underway with other lenders and municipalities.

REAL Program *(REfinance to an Affordable Loan)*

The REAL program was designed to provide affordable 30-year fixed interest rates to homeowners who initially obtained an adjustable rate mortgage (or some other 'exotic' mortgage product) and are no longer able to afford the adjusted mortgage payments. Because the REAL program combines 100 percent financing with flexible credit underwriting, it offers relief to homeowners who otherwise may not qualify for other mortgage refinance programs.

A network of 77 approved lenders originates, closes and sells the loans to the Agency. Today, interest rates are 7.625 percent with no points and 7.375 percent with one point.

The following is a summary of the program guidelines:

- The combined gross annual income of all borrowers may not exceed $120,000. This may be waived for consumers not eligible for a refinance loan available in the general market.
- Applicants may be up to 59 days behind on their existing mortgage and can include arrearages in the REAL loan amount.
- The applicant's monthly total debt obligations including the REAL loan payment may not be more than 50 percent of total gross monthly income (or 45 percent for borrowers with a credit score below 620).
- The REAL loan may be used to finance items such as subordinate mortgages, closing costs, prepayment penalties, delinquent property taxes, and arrearages that have occurred within the past 12 months after a payment reset.
- Borrowers must have a credit score of at least 620 **<u>OR</u>** meet both of the following conditions:

1. The mortgage payment adjusted in the last 12 months to a higher interest rate or a fully amortized payment and the applicant has made no more than two, 30-day late payments since the adjustment. The mortgage payment history 12 months prior to the adjustment shows no history of late payments.
2. The credit history of other debt (car loan, credit cards, etc.) shows no more than three, 30-day late payments 12 months prior to the mortgage adjustment.

HERO Program *(Homeowners Equity Recovery Opportunity)*

HERO is a loan program designed to improve the financial situation of Pennsylvanians who are not able to afford their current mortgage payments. This program is for borrowers not eligible for PHFA's REAL program or another mortgage refinance product available in the general market due to credit issues or owing more than their home's current appraised value.

HERO provides for up to 100 percent financing but, instead of the borrower refinancing into a new loan, PHFA purchases the loan directly from the current lender and then sets up an affordable repayment agreement with the homeowner. In cases where more is owed than the home's current value, PHFA may negotiate for a discounted purchase of the loan from the current lender or servicer.

Applicants will also be advised to contact the Pennsylvania Legal Aid Network office in their area to explore any and all possible legal remedies to their mortgage situation. If appropriate, PHFA works with the Pennsylvania Department of Banking as well as the Pennsylvania Attorney General's Office to negotiate fair purchase terms with the current lender. PHFA-approved counseling agencies will provide debt and delinquency counseling to each HERO borrower to increase their level of financial literacy and help them learn how to more effectively manage their debt, budget their income and save money.

The interest rate for the HERO program is 7.95 percent with no points. This is a fixed rate, and there is no prepayment penalty. PHFA will service all HERO loans. Property taxes and insurance will be escrowed with the borrower's monthly mortgage payment.

The following is a summary of the program guidelines:

- The combined gross annual income of all borrowers may not exceed \$120,000. This can be waived for consumers not eligible for a refinance loan available in the general market.
- Applicants must demonstrate an effort to meet financial obligations to the best of their ability.
- Applicants must have stable and sufficient income to maintain timely mortgage payments on the HERO loan.

- Applicants must own the mortgaged property and reside in it as a permanent residence.
- The home's current value must support the proposed HERO loan.
- The current lender must accept PHFA's terms and conditions for purchasing the loan.

ISSUES

- Pennsylvania has approximately 213,000 sub-prime loans of which 16.69 percent are delinquent. Of the 213,000 sub-prime loans, 136,000 are fixed-rate of which 13.20 percent are delinquent and 77,000 adjustable rate mortgages (ARMS) of which 22.52 percent are delinquent.

- Many servicers and lenders are very slow or reluctant to negotiate to restructure loans for fear of being held liable by investors. If lenders would allow servicers to modify loans with agreed upon standards, more homeowners could remain in their homes.

- The establishment of a loss reserve fund for the restructured mortgages is critical for any refinancing initiative.

- A strong education component should be mandatory to provide homeowners with an understanding of mortgage products and homeownership responsibilities.

Stabilizing Communities Affected by Foreclosure

The Agency's community revitalization initiatives, collectively called the Homeownership Choice Programs, help distressed neighborhoods become desirable places to live by financing residential construction in urban areas and core communities throughout the Commonwealth. In Pennsylvania, this Program attracts private development to blighted urban areas and could with some adjustment provide stability to all types of communities throughout the nation affected by large scale foreclosures.

This public and private investment partnership has proven to be an effective means to restore tax bases and maintain neighborhoods.

Highlights

- Created in 2001
- Over $463 million leveraged by $75 million PHFA investment
- 2,031 new homes constructed or rehabbed
- 123 apartments, 28 condos and 64 commercial spaces rehabbed

- Catalyst for ongoing private and public investment
- Involves municipalities, community groups and private enterprise

Homeownership Choice Funding Model

Following is an example of how a typical Agency blight-remediation development brings a variety of funding sources together.

In 2001 a non-profit group had a vision to revitalize a neighborhood in a section of East North Philadelphia known as "The Badlands". The area was plagued with severe blight, vacant lots and deteriorating shells of former residences and the crime and despair that accompany this environment. With the help of a $1.7 million dollar loan from PHFA's Homeownership Choice Program, over $6.5 million in additional investment was able to be leveraged by the community group. These funds financed the clearing of entire blocks and the construction of 50 new homes. These new homes were sold prior to completion and one year later appraised for over 60 percent more than their original purchase price.

After this initial success, supplementary funds from the Homeownership Choice Programs allowed for the construction of an additional 55 new homes. They too were all sold prior to completion. In these first two phases, HCP loans of $2.7 million have leveraged over $9 million in additional investment. A third commitment of $1.575 million in loans has brought in another $8.5 million in investment and will build 35 more new homes in the neighborhood.

The revitalization is dramatic. This portion of "The Badlands" is now "Pradera", a safe, affordable and desirable neighborhood. Additional private development and investment is now underway, property values and home sale prices are rising--a complete reversal of life for the neighborhood and residents is evident.

Further information about PHFA programs may be viewed on the internet at *www.phfa.org*.

Again, thank you for the invitation. I look forward to answering any questions you may have.

Statement of Ira J. Goldstein
The Reinvestment Fund

April 7, 2008

TRF Capital at the point of impact.

Introduction

Good morning. My name is Ira Goldstein and I am the Director of Policy and Information Services for The Reinvestment Fund (TRF). I am honored to be asked to come before you today and give you the results of our research into the predatory lending and mortgage foreclosure issues.

The organization of which I am part - TRF - is a national leader in the financing of neighborhood revitalization. Founded in 1985, TRF has invested over $700 million in the creation and preservation of affordable housing, community facilities, commercial real estate, and renewable energy. Since inception we financed the creation of more than 16,000 affordable housing units, 22,000 charter school slots, 6.4 million square feet of commercial space, and 400 businesses. We also have been actively involved in research related to various aspects of the housing market.

Our work in the areas of mortgage lending, foreclosure and predatory lending has been supported by grants from foundations, as well as contracts from local and state governmental entities. The research we do has both a strong, objective data-based component, as well as a systematic qualitative component. Today, I was invited to provide the results of TRF's study *Lost Values: a study of predatory lending in Philadelphia*. In my remarks today, I will provide highlights of that study and also some additional updated information on mortgage lending and foreclosures here in Philadelphia.

Lost Values: a study of predatory lending in Philadelphia

Lost Values was funded by the Ford Foundation. The results derive from a study of over 2,200 randomly selected properties across the city of Philadelphia and more than 13,000 properties in nine purposefully selected neighborhoods across the city. Data were also gathered through systematic interviews with people from all sectors of the mortgage lending process - from the borrower to the broker to the lender to the servicer and securitizer to the attorneys who represent borrowers and those who represent lenders to the Sheriffs who auction off properties on which homeowners are no longer paying their mortgage.

The quantitative data that we used allow us to inspect and quantify the complete mortgage and sale transaction history for each selected property. [A sample of the data we used is supplied as Appendix A.] Based on a thorough review of the literature and our interviews, we systematically coded patterns of transactions that were indicative of predatory lending. For example, we coded the presence of "rapid refinancing" which we defined as two or more subprime mortgages of increasing amounts within a one-year period. We also coded for the presence of a mortgage that likely exceeded the value of the property. Our third indicator was a pattern that we observed in the data and reflected the historic evolution of the mortgage industry. That pattern was measured as several small pre-1993 equity loans (typically originated by the locally active finance companies) refinanced into a larger subprime loan (originated after 1993). The significance of 1993 is that it is the watershed year for the growth in securitization of subprime mortgage loans.

Each of the aforementioned indicators of predatory lending is imperfect and potentially subject to multiple interpretations. The presence of more than one of these indicators is however, more likely than not, suggestive of predatory lending. What we found is that across the city of Philadelphia, 3.1% of all owner occupied properties had two or three of the aforementioned indicators of predatory lending. Of those owners that had three or more mortgages placed against their properties during the tenure of their ownership, the 3.1% rises to 14.1%. Moreover, some neighborhoods were impacted more significantly than others. Many of those areas more adversely impacted had below-average home prices and were home to disproportionate percentages of African American and Hispanic residents. Such areas, in some instances, had more than 30% of homes with a pattern of loans indicative of predatory lending.

Not all instances of predatory lending lead to a mortgage foreclosure – and not all foreclosures are the result of predatory lending. But, they often do go together.

Foreclosures in Philadelphia are an all-too-frequent event. [See Appendix B for two areas in Philadelphia with exceptionally high rates of foreclosure.] The period of time covered by *Lost Values* included a dramatic run-up in filings from a low of 5,096 in 2000 to a high of 6,343 in 2003. Calendar year 2003 was a post-2000 high and the number of filings dipped substantially to a low of 5,097 in 2005. Since then however, the number of filings rose over 22% to 6,237 in 2007 and there are no signs of a reduction in that trend. [See Appendix C – also in Appendix C are maps of foreclosure filings in Philadelphia for the period 2005-2006 and 2007.] We found that the frequency of indicators of predatory lending was two-and-a-half times as great in properties subject to a foreclosure filing than randomly selected properties. Most sobering among our findings was that more than 28% of properties subject to foreclosure in Philadelphia's lower and modestly-priced areas manifest multiple indicators of predatory lending.

Recent Local Trends

Since the release of *Lost Values*, the landscape has changed locally and nationally. You've had an opportunity to see and hear about the national situation but I wanted to take a moment and give you the benefit of some Philadelphia context. A few facts:

- Subprime lending in Philadelphia rose between 2004 and 2006 (the most recent date for which comprehensive data are available). The percent of home purchase loans that are subprime rose from 14.4% to 31.5%; the percent of mortgage refinance loans that are subprime rose from 24.2% to 41.8%. [See Appendix D]
- Concomitant with the rise of subprime lending is the decline of FHA lending. In 2003, FHA loans comprised 15.3% of all purchase money mortgages and 6.1% of mortgage refinances. In 2006, the percentages were 5.8% and 1.5% respectively. [See Appendix E]
- TRF has analyzed the percentage of the estimated aggregate value of real estate that has been mortgaged in any given year. The higher that percent, the greater

the exposure to adverse circumstances in the real estate and mortgage markets. In Philadelphia, the percent of the aggregate value of real estate that has been mortgaged is approximately 13.5%. That is well above the Pennsylvania average of just under 9%.

- During a period of time when household income in Philadelphia rose by 8.9%, the average prime purchase mortgage amount rose 29.6% and the average subprime mortgage amount rose 22%; the average prime refinance loan amount rose 16.2% and the average subprime refinance loan amount rose 43.6%.

Statewide, we are experiencing an increase in our mortgage delinquency and foreclosure rates, although those increases are not as severe as other states (e.g., Ohio, Nevada, Indiana, etc.). Servicing data show that between 2004 and 2007:

- The prime ARM percent of loans in a delinquency status stood at 6.33% on 12/31/07 – representing a 54.8% rise since 12/31/04.
- The subprime ARM percent of loans in a delinquency status stood at 27.17% on 12/31/07 – representing a 111.8% increase since 12/31/04.

Between 2006 and 2007, Pennsylvania's prime fixed-rate delinquency rate rose by a modest 1.45% and the subprime fixed-rate delinquency rate rose by 8.67%. However the prime ARM delinquency rate (although still substantially lower than the subprime ARM delinquency rate) increased 49.65%, exceeding the subprime ARM delinquency rate increase of 35.04%.

Loans made in 2006 and 2007 were remarkable in terms of their early delinquency experience. For all loan types, the first-year delinquency experience in 2007 exceeded the first-year experience for any year since 2004 (inclusive). Of note is that 22.2% of subprime ARMs originated in 2007 was already delinquent before the end of 2007. But even the mainstay prime fixed-rate loans were under pressure. Of prime fixed-rate loans originated in 2004, 1.66% was delinquent by the end of

2004; of prime fixed-rate loans originated in 2007, 2.36% were delinquent by the end of 2007 – a 42.2% increase.

There are zip code areas in Philadelphia in which servicing data show extraordinary levels of delinquency. For example, for the prime fixed-rate loans we observe:

	Prime Fixed	
Zip Cpde	#	% Non-Current
19142 Southwest Phila	2,081	15.38%
19132 Strawberry Mansion	727	14.03%
19138 West Oak Lane	1,814	13.86%
19141 Logan-Fern Rock	1,393	13.32%
19140 Hunting Park-Tioga	1,828	13.28%

With prime ARMS we observe:

	Prime ARM	
Zip Cpde	#	% Non-Current
19120 Olney	321	16.93%
19124 Juniata-Feltonville	327	13.19%
19138 West Oak Lane	317	8.36%
19111 Burlholme-Lawncrest	369	8.03%
19149 Frankford	390	6.49%

With subprime fixed-rate loans we observe:

	Subprime Fixed	
Zip Cpde	#	% Non-Current
19142 Southwest Phila	485	35.42%
19140 Hunting Park-Tioga	406	25.81%
19120 Olney	993	25.61%
19149 Frankford	554	25.32%
19135 Tacony-Wissinoming	430	24.47%

And with subprime ARMs we observe:

	Subprime ARM	
Zip Cpde	#	% Non-Current
19143 Kingsessing-Cobbs Cr	317	32.90%
19151 Overbrook	270	31.97%
19142 Southwest Phila	227	31.96%
19144 Germantown	236	29.74%
19149 Frankford	289	29.50%
19120 Olney	389	29.24%

Notice that there are several zip codes that are among the most adversely impacted by mortgage delinquencies for more than one mortgage type (e.g., Olney, Frankford, and Southwest Philadelphia). A large percentage of mortgages that are delinquent will likely go to foreclosure. In this communities, not only will the homeowners and investors experience a loss, but so too will their neighbors whose homes will be devalued as a result of these foreclosures. Furthermore, the City and its school district will experience both a direct and indirect loss as a result of the inevitable loss of property value.

Final Comments

I would like to take a moment and speak about a universally accepted policy response that has great potential for helping homeowners in trouble: housing counseling. It is my first-hand observation that housing counselors generally try very hard to keep up both with changes in the lending and servicing industries and the extraordinary growth in volume of demand for their services. Yet, there is no industry-wide quality standard or measure of efficacy for counseling that we will be able to monitor as tens of millions of additional dollars are put aside for this effort. I would therefore recommend the creation and implementation of industry-wide quality standards and a compensation structure that relates not only to the volume of work but to the results of the counseling effort. I also suggest that the localized nature of this problem and available remedies (e.g., state programs or legal protections that exist uniquely in Pennsylvania but do not exist in other states) speaks to the importance of our attention to quality standards when the voice on the other side of the phone may be time zones away from the person in trouble.

Certainly, giving greater latitude and resources – along with greater accountability - to the FHA is appropriate. Our city, and other cities around the mid-Atlantic that we have studied (e.g., Baltimore, MD or Newark, NJ to name a few), experienced a dramatic decline in FHA lending. Underwriting, loss mitigation and servicing protocols for federally insured loans tend to be superior to practices of typical conventional subprime loan underwriters and servicers. Along with FHA's more significant role in the resolution of the mortgage foreclosure problem must be a federal commitment to insist and ensure that lender-originators and servicers abide by those protections.

If I were to point to a missing element in many of the plans discussed at the federal level it would be to bolster the enforcement responsibility of HUD, the Department of Justice, Federal Trade Commission and the regulatory agencies. One needs only to look at the number of cases on this issue by the FTC or Justice's Civil Division to see that it has not been a national priority. The lesson of the past is that deregulation coupled with anemic law enforcement is a recipe for disaster.

Lastly, it is important to remember when comparing Pennsylvania's experience to other states' that Pennsylvanians benefit greatly from the presence of its Homeowners' Emergency Mortgage Assistance Program (HEMAP). Each year, Pennsylvania Housing Finance Agency (PHFA) staff and certified counselors around the state review thousands of applications from Pennsylvanians at the brink of mortgage foreclosure. Typically more than 1,500 people are assisted per year. Those homeowners who get assistance from PHFA never reach foreclosure; were they to, Pennsylvania's numbers would look far worse. PHFA should also be commended for some novel approaches to working with people who have adjustable rate mortgages that are becoming unaffordable through its HERO and REAL programs. Finally, Pennsylvania's Legislature is moving on several bills that will strengthen the regulatory environment and enhance consumer protection for homeowners in Pennsylvania.

Thank you for inviting me to testify and I welcome your questions.

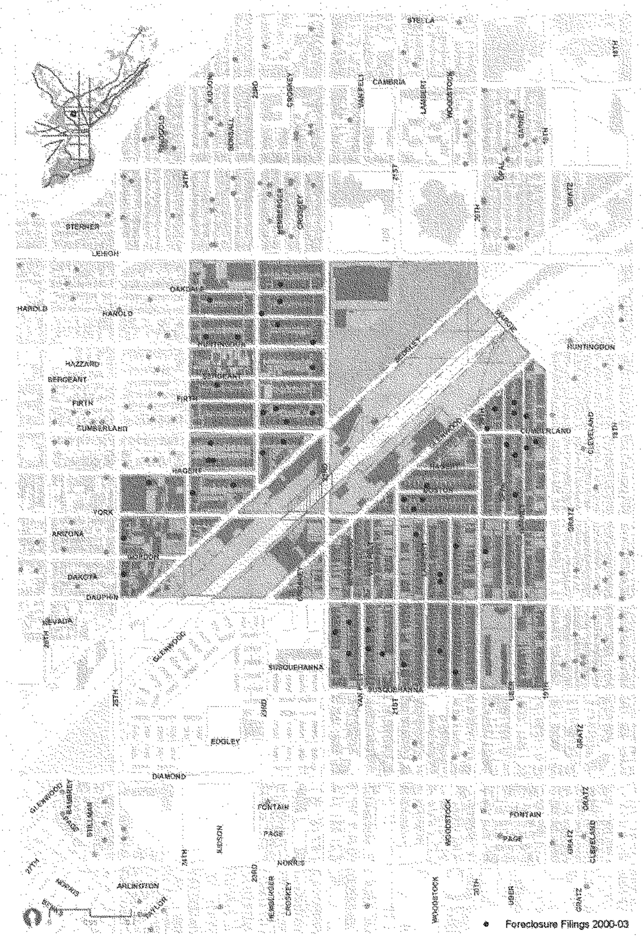
Appendix A:

Sample Mortgage and Sale Transaction History

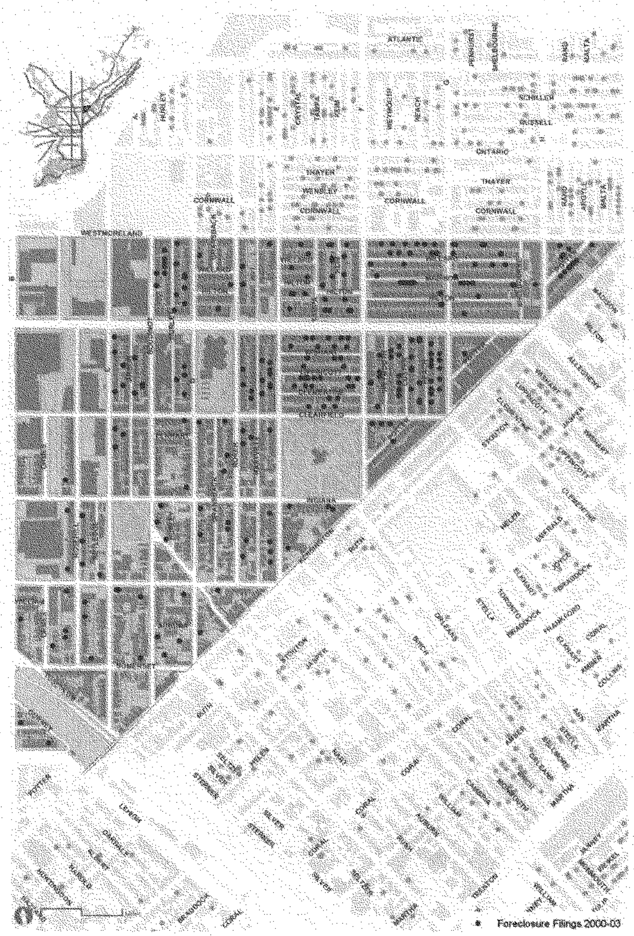
```
Mun   :16                      [redacted]HAGERT ST                         Carrier
Map   :[redacted]              PHILADELPHIA, PA 19132-4245                  Route : C031
Prcl  :                           PHILADELPHIA                             Census: 0168.0
TaxId:

------------------------------ Ownership Data ------------------------------

Current Owner: [redacted] Veronica
Mail Address : [redacted]PHILADELPHIA PA 19132-4245
Phone        :

---------------------------------- Tax Data ----------------------------------

Bldg/Subdiv  :
Land Use: 030, Row (3 or more), 2 Stories, Masonry
Land Assm:       $1,203   Lot Size: 152' x 112'      Style   : Unknown
Totl Assm:       $4,960   Lot Area: 17,136 sqft      Units   :     1
Exmp Assm:                Bld Area: 1,357 sq ft      Zoning  :
YearlyTax: $410           Stories : 2.0              Corner  : No
CrossSts :
---------------------------- Recording History ----------------------------
                    Rec Dt/    Book/ Grantee/Mortgagee
 Type    Amount     Stlmt Dt   Page  Address

 Sale $7,500        10/01/1980 0     [redacted] Veronica
                               0
 Mort $8,064        08/26/1987 1198  MID PENN CONS DISC CO
                               286
 Mort $5,676        02/19/1988 1371  ALL STATE DISC BLDRS INC
                               474
 Mort $7,063        03/29/1988 1413  MID PENN NATL BK
                               550
 Mort $6,840        06/15/1990 2227  MID PENN CONS DISC CO
                               23
 Mort $5,128        07/16/1992 220   MID PENN CONS DISC CO
                               335
 Mort $7,680        03/31/1993 526   SECOND NATL MTGE CO
                               273
 Mort $17,233       12/16/1993 886   COMMERCIAL CREDIT PLAN CONS DISC CO
                               481
 Mort $19,062       01/24/1994 935   COMMERCIAL CREDIT CORP
                               153
 Mort $24,503       03/21/1995 1526  COMMERCIAL CREDIT CORP
                               220
 Mort $29,250       12/15/1995 1824  INDUSTRY MTGE CO
                               133
 Mort $3,828        11/26/1996 308   PHILA GAS HEATING CO
                               451
 Mort $35,250       02/12/1997 423   AMERICAN MTGE REDUCTION INC
                               153
 Mort $2,815        02/12/1997 426   AMERICAN MTGE REDUCTION INC
                               497
 Mort $2,880        10/27/1999 3328  NORWEST FINANCIAL CONS DISC CO
 end.                          278
```

Appendix B:

Sample Census Tracts – Census Tract 168 (Glenwood)

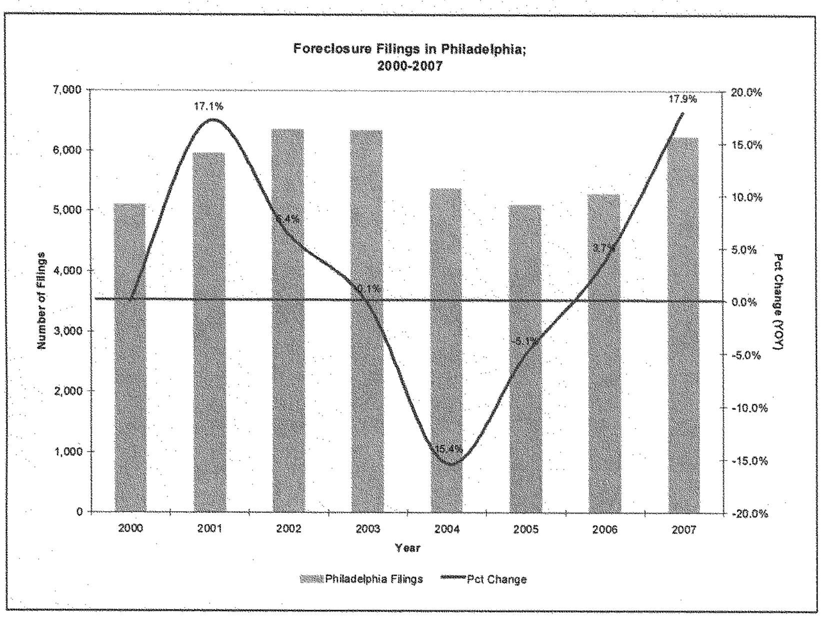


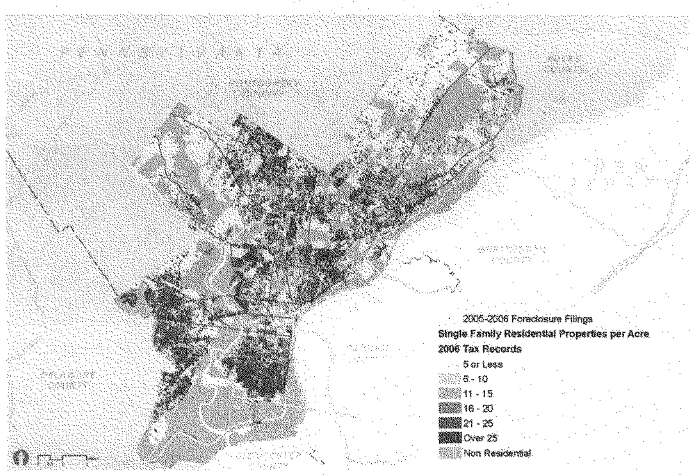
Sample Census Tracts - Census Tract 188 (Juniata Park)

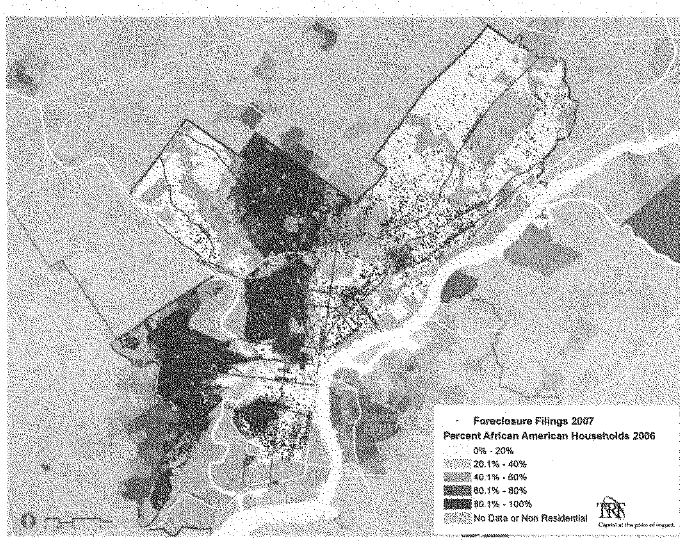


Appendix C:

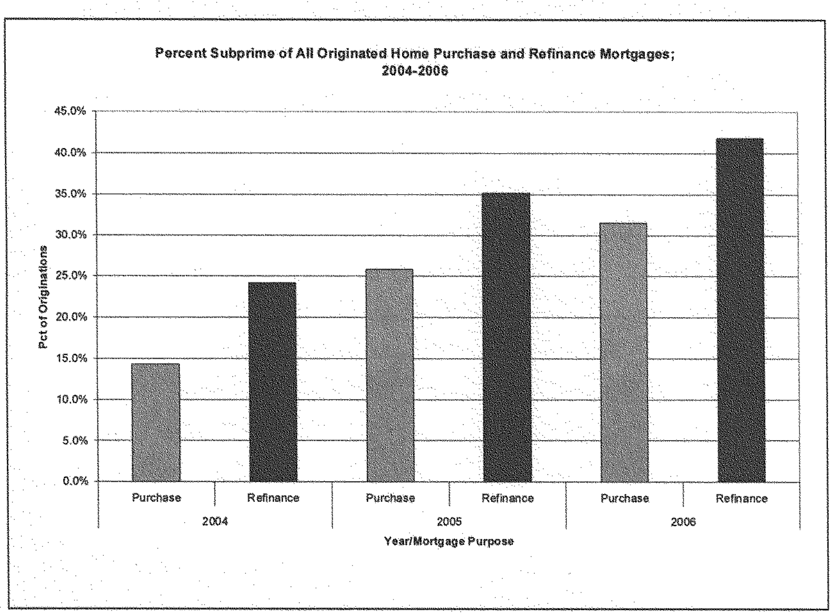
Annual Foreclosure Filings in Philadelphia; 2000-2007



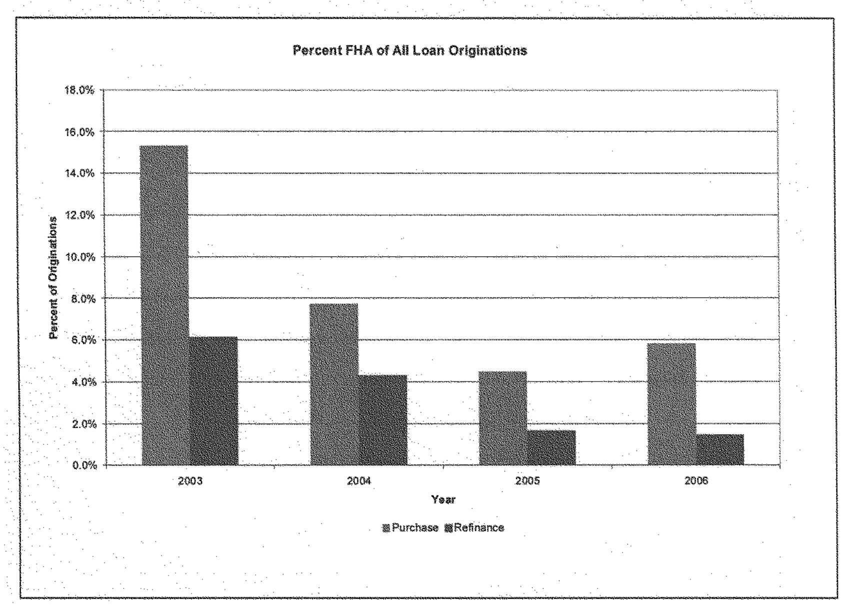

2005-2006 Foreclosure Filings
Single Family Residential Properties per Acre
2006 Tax Records
5 or Less
6 - 10
11 - 15
16 - 20
21 - 25
Over 25
Non Residential


Foreclosure Filings 2007
Percent African American Households 2006
0% - 20%
20.1% - 40%
40.1% - 60%
60.1% - 80%
80.1% - 100%
No Data or Non Residential

Appendix D:
Percent Subprime; 2004-2006



Appendix E:
FHA Loans as a Percentage of Philadelphia Mortgage Originations



TRF Capital at the point of impact.

Contact information for Ira Goldstein

Ira Goldstein, Ph.D.
Director, Policy and Information Services
The Reinvestment Fund
718 Arch Street
Suite 300 North
Philadelphia, PA 19106
215-574-5827 (Telephone)
215-574-5927 (Fax)
ira.goldstein@trfund.com

ACORN

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April 7, 2008

Yajaira Cruz Rivera,
ACORN Member

Chairman Dodd and members of the Committee:

In 2005, my husband and I purchased our home. We budgeted carefully and then enlisted the help of what we thought were a respected and well-known broker. We did our homework. My husband and I were told we would have a monthly payment of $925 a month. We went to the closing table with that in mind and designed our household budget around that.
Just 10 days later we received a letter in the mail stating that at a mistake had been made at closing. The interest rate we were given was not going to be 7% but rather 10.95%. Our payments would not be $925 but rather $1200. We considered backing out then, but we had already moved into the home. Our children were settling in, to pack everything back up was something we could not do. We had already put so much money out. Fred and I decided that although we would struggle, we would make it.

Then in 2007, the unthinkable happened. Our rate adjusted upward and our new payment was now $1671 a month. A home we thought we were getting for $925 a month in 2005 is costing us nearly double that today. My husband works 16 hour days, 6 days a week, but still we are not able to keep up with the payment. We made partial payments, all that we could, but soon found ourselves facing foreclosure.

We explored refinancing but now our credit is damaged and on top of that we have a prepayment penalty; if we do refinance we have to pay GMAC a huge fee upfront. We have been trapped into a terrible loan by greedy, predatory and fraudulent lending practices.

Late last year I contacted ACORN after seeing a piece on television about how many homeowners were expected to go into foreclosure in Philadelphia of the next year. It was then that I realized I was not alone in this mess. I sought out help on my loan but I also worried about my neighbors, some of them seniors, who were and are going through the same thing.

After months of negotiation with my lender, ACORN Housing modified my loan, so that I am paying $1284 a month and that my loan has a true fixed interest rate. Now that I know how these lenders operate I read that modification over and over to find the hidden language. My modification officially does not take place until 6 payments at the new rate are made and on top of that GMAC's loss mitigation department forgot to tell their collections department that my loan had been modified and my arrears settled. Just three weeks ago, I received a notice for a May Sheriff Sale on my door. We straightened it out, but that type of oversight shows the type of chaos that is happening behind closed doors at the offices of the subprime servicers right now. What we are saying here in Philadelphia is that we as a City of neighborhoods will not stand by as our communities are destroyed. When I hear that there were 6,237 foreclosure filings last year I think about how many families that represents. My family consists of me, my husband, four kids and a dog. Where are 32,000 displaced people going to go?

For each foreclosure on a block, property values go down and crime goes up. Tax revenues to the city go down across the board. The loans made in 2006 are going to cost the City $345 million dollars. Can our schools face the cut that $345 million in lost revenue means? Can the Licenses and Inspection department board up and keep the copper pipes in those homes? We do not think the City and its neighborhoods should have to bear the burden of these predatory lending practices.

On March 25th, Ms. Jones and I hosted a meeting at House of Prayer Episcopal Church to discuss this crisis. Over one hundred of our neighbors came out, Councilman Jones and other members of Council came out. We all agreed that the City should do all it could to prevent what has happened in Cleveland and Detroit because of these loans from happening here. Just a few days later Councilman Jones and Councilwoman Tasco introduced and unanimously passed a resolution calling on the Sheriff to stop Sheriff Sales on owner-occupied homes with subprime loans. Thirty minutes later the Sheriff announced that April's Sheriff Sales had been postponed and that we would not have mortgage foreclosure sales in the City until lenders come to the table to offer real solutions to this crisis.

We think that maybe these lenders are waiting for the government to bail them out of the mess they created. They talk a good game about wanting to fix these loans, but they have modified less than 1% of the subprime loans they need to. Each case takes 3-5 months to resolve, if it is resolved at all. The reason it takes so long is that there are different criteria for each borrower.

We need a standard, streamlined approach for fixing the 2.2 million loans set for foreclosure nationally this year. We need a set affordability standard to fix these loans, not an arbitrary decision based on who you happen to get on the phone when you call your lender. Housing counselors should be able to plug in information about a borrower and their loan into a computer and get an immediate answer to what the loan modification will be. That is the type of fast process the brokers have when they were searching out these terrible loans, it is only right that they fix these loans just as fast.

We cannot wait for a solitary loss mitigation staff person to pull out the abacus for each and every individual case. Our neighborhoods will never recover is this is how they are going to handle this crisis.

ACORN and the City of Philadelphia will not sit idly by and see our neighborhoods destroyed. As evidenced by the actions of City Council and the Sheriff, Philadelphia will fight back and hold lenders accountable for their actions. We will require them to fix these failing loans.

We cannot wait for solutions to come from the state or federal level either, or else we may suffer the same fate as so many cities that have already been devastated by this crisis. We have acted now and we expect and hope that other cities will join us. We also hope that other states will join us and demand answers from those who caused the housing collapse we now face.

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Lastly and most importantly we need the federal government to join with us to demand solutions from lenders, especially a standard and streamlined system to modify subprime loans for owner-occupied homes. Any regulations and legislation must be aimed at helping consumers and borrowers not just investors and lenders.

Thank you for coming to our wonderful City of Philadelphia and thank you for giving ACORN the opportunity to testify on what we feel is the most pressing issue facing our economy today. We look forward to answering any questions you may have.

Philadelphia: 846 North Broad Street, Philadelphia, PA 19130 - (215) 765-0042
Pittsburgh: 5907 Penn Avenue, Suite 300, Pittsburgh, PA 15206 – (412) 441-6551
Allentown: 602 East Hamilton Street, Suite 202, Allentown, PA 18101 – (610) 433-3313
Harrisburg: 14 South 13th Street, Harrisburg, PA 17140 – (717) 233-0133
www.acorn.org

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April 7, 2008

Christina Anderson Jones,
ACORN Member

Chairman Dodd and members of the Committee:

Thank you for giving ACORN the opportunity testify as to the effects of predatory lending and the need for meaningful mortgage reform in Philadelphia and throughout the Commonwealth. We would also like to thank Senator Casey for bringing this hearing to Philadelphia.

Philadelphia has been my home all my life. My daughter and I live in different homes on the same block I grew up in South Philadelphia. I am a block captain and have been involved in my community for many years. I try my best to be a good neighbor. I organize block clean-ups and do things for the children when I can. My house is not just a house, it is my home and where I hope to live the rest of my life.

Just two years ago, I refinanced my home with Wells Fargo / America's Servicing Company. I was facing a rough time financially, and they offered me what I thought at the time was a good deal, get some cash out of my home to help me get by the hard times. My payments would be just over $400 a month. It was a payment that I could afford.

Late last year I received a note in the mail from Wells Fargo saying that my monthly payments would begin adjusting upward in February. I immediately called the man who set me up with my loan.

He said, "No, no that isn't right. I only make fixed loans." I remember hearing that once before from him, during closing. I have not been able to get him back on the phone after I gave him a piece of my mind, which I did shortly after ACORN showed me where in my loan the adjustable rate language was tucked into my loan.

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I am on a fixed income, but my mortgage is not fixed. I was on a fixed income when I got this loan, why was I given this ARM loan in the first place? I did not ask for an adjustable rate loan, I do not know anyone who did. But in 2006, the year I refinanced my home, about 42% of the people in Philadelphia who refinanced, refinanced into a subprime loan. Close to 12,000 people, many seniors like me that wanted to make minor repairs to their home or needed some money to help out a family member, are going to be in trouble this year because of these loans.

Where are they going to go? Where am I going to go?

My last monthly payment was over $700, almost double what I thought I was going to be paying. I am current on my loan, but I have to beg and borrow from other places to make that payment. Gas and electric fall behind one month, the phone bill the next. I will not be able to keep it up much longer. I have been trying to work with my lender as soon as I found out that I had an adjustable rate mortgage. I have tried to go at them myself and with the help of ACORN Housing. I do not want a hand out, I just want what I was promised – an affordable fixed rate mortgage.

It takes months for these lenders to return a phone call. If there are thousands of us in Philadelphia and millions around the country that are going through this, the lenders need to take notice. They can't handle those of us that have been calling now, if 2.2 million people are going to be facing foreclosure over the next year, how can they get away with not having a standard process for fixing these loans?

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ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD

Greater Philadelphia Urban Affairs Coalition

Ensuring that every person has the opportunity for educational and economic success, and a secure and healthy life.

1207 Chestnut Street, Philadelphia, PA 19107; Phone: 215-851-1702; Fax: 215-851-0107
Email: smturner@gpuac.org; Website: www.gpuac.org

April 4, 2008

Honorable Robert P. Casey, Jr.
United States Senator
2000 Market Street, Suite 1870
Philadelphia, PA 19103

Dear Senator Casey:

Thank you for the opportunity to share the views of the Greater Philadelphia Urban Affairs Coalition (GPUAC) regarding the kinds of federal legislation that are needed to effectively deal with the foreclosure crisis. We plan to attend the public hearing that you and Senator Dodd will hold in Philadelphia on April 7th.

As advocates for low- and moderate-income working families our primary concern is the impact of the sub prime lending crisis upon homeowners, their families and communities more than the impact on the financial system. Accordingly, we favor increased consumer protections, the mobilization of federal government resources to help homeowners stay in their homes and the use of federal resources to help communities deal with foreclosed properties in cases when all remedies fail.

1. Specifically, we urge you to **support a federal version of Pennsylvania's successful Homeowners Emergency Mortgage Assistance Program (HEMAP)** that provides temporary assistance in making monthly mortgage payments on behalf of homeowners who are falling behind to due economic circumstances beyond their control.

2. We also urge you to **support the basic elements of the FHA Housing Stabilization and Homeownership Retention Act** proposed by Senator Dodd and Representative Barney Frank. These bills would authorize federal housing agencies to insure and guarantee the refinancing of sub prime mortgage loans if they are discounted by the lender to levels that are affordable to the borrowers. They would also provide funds for state housing agencies to acquire and remarket foreclosed properties and provide funds for housing counseling agencies to provide foreclosure prevention services.

3. Finally, we endorse the **proposed regulatory rule change that would amend regulations under the Home Ownership and Equity Protection Act ("HOEPA")** also known as the home mortgage provision of Regulation Z ("Truth in Lending"). The proposed rule change would do the following: For "high priced loans" it would prohibit lending without regard to the borrower's ability to pay; make mandatory the verification of income and assets; place limitations on prepayment penalties and make mandatory the establishment of escrow accounts for taxes and insurance. For all loans it would prohibit undisclosed compensation to brokers for yield spread premiums; prohibit coercion of appraisers; establish controls on servicer practices with regard to when payments are recorded and bar deceptive ads regarding interest rates.

GPUAC is a large nonprofit organization that unites government, business, neighborhoods and individual initiatives to improve the quality of life in the Philadelphia region, builds wealth in urban communities and solves emerging issues. It carries out this mission through policy development, program implementation and the provision of professional services. GPUAC formed an interagency Foreclosure Prevention Task Force in 2007, which will present its recommendations to various stakeholders later this month.

We appreciate your commitment to help address this terrible problem and your leadership in finding solutions. We would be glad to be of further assistance to you in the development of effective policies and implementation of practical solutions for homeowners. We are eager to be of assistance.

Sincerely,

Sharmain Matlock Turner
President