Agency: Washington State Housing Finance Commission
2011 NCSHA Annual Awards for Program Excellence
Communications Category: Promotional Materials and Newsletters

My View's in-depth reports on the impacts of the foreclosure crisis, published by the Washington State Housing Finance Commission

April 2008: *Foreclosures on homes in Washington State: What the current landscape looks like—and what's being done to educate and safeguard homeowners*

July 2009: *Foreclosures on homes in Washington State (part 2): As the crisis has deepened, what's being done to meet the challenge?*

June 2011: *Washington State's Foreclosure Fairness Act: A second try at a fair, clearly defined and enforceable process for homeowners facing foreclosure*

My View's **Objectives**

Washington State Housing Finance Commission's *My View* newsletter plays a unique role in our organization's communications with our stakeholders. With *My View's* launch in 2004, we made a long-term commitment to keep our readers informed about critical issues and initiatives that are impacting the health and viability of our state's affordable housing and community services.

Each *My View* is dedicated to an in-depth exploration of a topic central to our organization's mission, which is to expand affordable housing access and affordability and to increase the availability of quality community services in our state. Whether a current event, a housing or human rights initiative, a significant achievement by a coalition or group—or a crisis that demands attention and intervention—we bring both great challenges and great successes to our readers.

The majority of *My View's* issues focus on the real-life stories of people in Washington State who need affordable housing and related services, and of the people and organizations that work to ensure that solutions remain within reach. We believe that our publication serves a vital role in sharing successful practices—and in alerting our readers to, and informing them about, efforts that are critical to ensuring that safe, decent and affordable housing remains a top priority for our Washington State legislators and citizens.

My View's Foreclosure Issues

The foreclosure crisis that has unraveled during the last decade has taken an enormous toll on the people who live in our state, but particularly those who are the most vulnerable. The crisis has been severe: Many, many families have lost and continue to lose their homes. Foreclosure scams have been rampant.

From the outset of this crisis, the Commission's executive director, Kim Herman, recognized the value of communications that could draw on many perspectives. His intent was to share critical information among those who would be integral to providing answers: legislators, key staffers and other public officials, advocates, concerned citizens, nonprofits, builders, realtors, and bankers.

Particularly in the early stages of this crisis, much critical information was not available. One significant piece of the puzzle that was frequently unknown and underpublicized, for example, was the relative degree of success that homeowners in default were achieving when they had the opportunity to work with certified housing counselors. Although foreclosures on many homes secured by subprime and other predatory loans were inevitable, those individuals and families who worked with these counselors fared better. As the state agency charged with overseeing all state and most federal funding for foreclosure counseling, the Commission was in a unique position to document—and strongly communicate—these success rates to all stakeholders.

Throughout this crisis, the Commission has been engaged on many levels in helping to collaborate on and forge solutions. These involve complex public-private sector partnerships and alliances that require significant legislative and financial expertise. Through these relationships, including the Governor-appointed Task Force for Homeowner Security, we were called upon to work alongside other affordable housing advocates to make recommendations to the legislature going forward. Again, we were in a unique position to see what was evolving in the housing markets all over the state and to share what we knew and were able to gather from others. *The Report of the Effectiveness of RCW 61.24.031*, for example, mandated by the Legislature and published by the Commission last fall, made it clear that previous legislation crafted to address the foreclosure crisis was falling short.

Our newsletter has built a strong bond with our readership—more than 2633 subscribers today. Since we published our first issue on the crisis in April 2008, we've frequently heard from readers that these publications have provided the most thorough Washington State coverage on the foreclosure crisis that they've read. We've fielded numerous requests to copy and distribute these issues. Most importantly, our readers have made it clear to us this information has been essential as they've advocated for legislative changes and more targeted approaches to helping families save their homes from foreclosure.

My View Success Criteria and Results

Here's why we think our publications on this topic deserve a Program Excellence Award:

They are innovative. These foreclosure-focused issues of *My View* have provided a unique, insider's perspective on the people who are struggling, the areas of our state that are most hard-hit, the solutions that are working, and the efforts and programs that continue to be needed to see our way forward.

Traditionally, organizational newsletters look <u>internally</u> and talk about their own activities and successes. Our publications address a broader audience and carry a different mandate. We focus on events and points of view <u>*outside*</u> the Commission, presenting multiple perspectives and urging action. Readers are able to take away what matters in their realm of influence, to use this information as it applies to their community.

My View's innovative approach helps support the Commission's mission in a very direct way. We see our role as helping to further solutions—and supporting the Commission's work in building partnerships to further our social and economic objectives.

They are replicable—and influential. With *My View,* we always take a journalistic approach to key topics. Although Kim Herman's vision is unique, this kind of communication vehicle can easily be implemented by any organization intent on reaching out to a more diverse level of influencers and advocates among its constituencies. For example, the director of the Washington Community Reinvestment Association told us she used *My View* as a model for the electronic version of her newsletter.

We reach our targeted audiences. Since launching *My View* in October 2004, we have built our email list from 872 in October 2004, to more than 2633 email subscribers across the U.S. today. *My View* goes out to every member of the Washington State legislature and the members and staff of our congressional delegation. It goes to directors of HFAs, HAs, and administrators of state, local, and federal programs. It is read by community leaders, nonprofit housing developers and local elected officials, affordable housing and community development advocates, those who finance affordable housing, and grassroots organizers.

***My View* achieves measurable results.** Readership, measured in terms of “views” of the newsletter on the Commission’s website, has grown. We started out with 921 views of our October 2004 issue. For our first two foreclosure issues, readers logged in to view it an average of 1770 times. Our June 2011 issue, has been in demand, at 1810 views—and counting. These issues have been quoted in newspapers, web blogs, and in the published communications of other agencies. We have been able to reach housing counselors, banks holding at-risk loans, other HFAs and many families in serious trouble.

Many readers’ responses represent a genuine dialogue; they tell us they’re applying strategies they’ve read about in our newsletter.

***My View* provides benefits that outweigh costs—and use resources effectively.** Our costs per issue are $7,000, including interviews, writing, production, and distribution. That’s approximately $2.65 per reader—though that figure doesn’t take into account copies that are forwarded to new readers and reproduced for widespread circulation by organizations and advocates by request. We provide the newsletter in both hardcopy and electronic versions. Considering the large number of families and the housing community we’ve reached through these issues, the benefits over costs are very clear. We think our high-impact coverage, which is reaching key partners, leaders, and influencers, easily justifies the cost per subscriber.

***My View* helps the Commission achieve its strategic objectives.** Ultimately, our greatest resource is our partnership with colleagues in the affordable housing community.

The work of advancing, providing and protecting affordable housing is a long-term, high-stakes undertaking. We know there’s only so much we can accomplish on our own as a public agency. By helping to build and support our community at large, this publication makes a strong contribution to our mission. We provide vital communications that our stakeholders cannot find elsewhere.

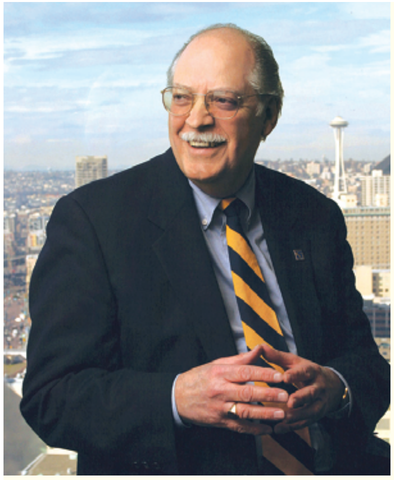
We honestly can’t think of a better way to have such a strong impact on the people who are making a difference in protecting vulnerable families from foreclosure scams and helping them, whenever possible, to create solutions that will enable them to refinance and remain in their homes.

WASHINGTON STATE
HOUSING FINANCE
COMMISSION

Opening doors to a better life

My View FROM KIM HERMAN, EXECUTIVE DIRECTOR

APRIL 2008



A unique, "inside" perspective on housing and community development from the executive director of the Washington State Housing Finance Commission.

Inside this Issue

Foreclosures on homes in Washington State: What the current landscape looks like—and what's being done to educate and safeguard homeowners

The credit crisis sweeping the U.S. has taken a terrible toll on many, many American home-owners—particularly first-time homebuyers and those of low or moderate means.

The most recent figures available from the Mortgage Bankers' Association currently place Washington State 49th in the number of home foreclosures. Although that's good news for our state as a whole, it's no consolation to the thousands of Washington homeowners who are facing foreclosure right now—or who have already lost their home in the foreclosure process.

In this issue, I'll review the work of the Governor's Task Force on Homeowner Security and present the perspectives of two of my fellow Task Force members who are legal and finance experts, Fred Corbit and Scott Jarvis. I've also interviewed four homeowner-ship counselors from across the state to hear what's happening in their communities. You'll hear their stories about real homeowners who have been caught up in our country's unfolding financial crisis. And, as a result of action by the Governor and Legislature, you will learn about some very important new homeowner protections that are now the legal right of every Washington resident.

The Task Force for Homeowner Security

Last fall, Governor Gregoire took bold measures to set in motion efforts to educate and protect current homeowners who are at risk of losing their homes. But her objectives reached much farther than that. In forming the Task Force for Homeowner Security, she also sought recommendations on measures, including legislative reforms in lending practices, that would protect future homebuyers.

Task Force member Fred Corbit aptly called us a homeownership security "think tank." We were people representing the entire span of the lending, homebuying, and homeownership advocacy profession—bankers, homeownership counselors, mortgage brokers, Realtors, finance and legal experts, community leaders, and government officials. We met as a group some six times, and also deliberated in subcommittees that focused on specific aspects of the consumer education, borrowing, lending, loan servicing, and loan origination processes.

Late last year, we presented the Governor with 24 recommendations. These included:

- Creating a public awareness and outreach campaign.
- Providing counseling assistance to borrowers at high risk of forfeiture as well as to first-time homebuyers.
- Implementing lender and loan servicer best practices that would ease pressures on borrowers at risk of foreclosures, including improved notice to consumers.
- Creating loan origination best practices, including disclosures—and prohibiting steering towards substandard mortgage products.
- Furthering financial literacy and consumer education.
- Setting standards for borrower protections for nontraditional mortgage products in sub-prime lending.
- Defining mortgage fraud as a crime—making it a Class B felony.
- Creating foreclosure "rescue" scam protections for homeowners.

These recommendations were turned into legislative proposals by both the Governor and members of the legislature that were considered during the 2008 legislative session.

The legislature responds

As a long-term participant in the legislative process in Olympia, I was gratified by how enthusiastically and speedily the legislature responded to virtually all of our recommendations. As of this writing, six bills dealing with the recommendations were passed by the legislature and signed by the Governor.

But as important as this legislation is, it is our future, not our present. Over the past decade, sub-prime lending has placed great hardship on many people, and their stories should be heard. Some of these are individuals for whom this new legislation is too late. Happily, many others at risk of foreclosure, often with the aid of homeownership counselors, have been able to renegotiate, get back on their feet, and save their homes.

Foreclosures have many causes

It's always the one rotten egg in the dozen that we notice first. Yet most mortgage loans made in the U.S. are made by reputable lenders, and the majority of mortgage brokers do have borrowers' best interests in mind. Our country's mortgage turmoil is the result of a long string of finance and risk management practices that, in retrospect, were ill advised. As the recent demise of Bear Stearns shows, these practices have hurt parties at every stage of the borrowing and financing process, from large financial institutions to the homebuyers themselves.

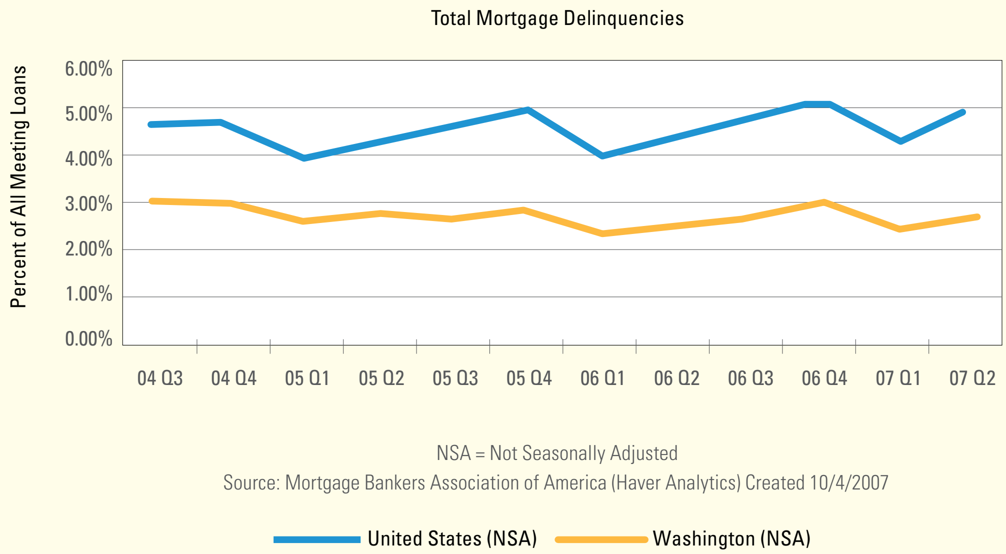
Because parts of our state, including the greater Seattle and Tri-Cities areas, continue to enjoy relatively strong economies and stable housing markets, their rates of foreclosures due to the "resetting" of adjustable rate mortgages (ARMs) have yet to skyrocket. In fact, in most areas of the state, for a good portion of those homeowners in the process of losing their homes, inappropriate placement into a sub-prime or ARM loan is not necessarily the whole story. There are a spate of other, varying causes, including declines in property values, inaccurate appraisals, loss of income due to a layoff, family emergencies or illness, homebuyers' poor understanding of debt vs. income ratios—and financial illiteracy in general.

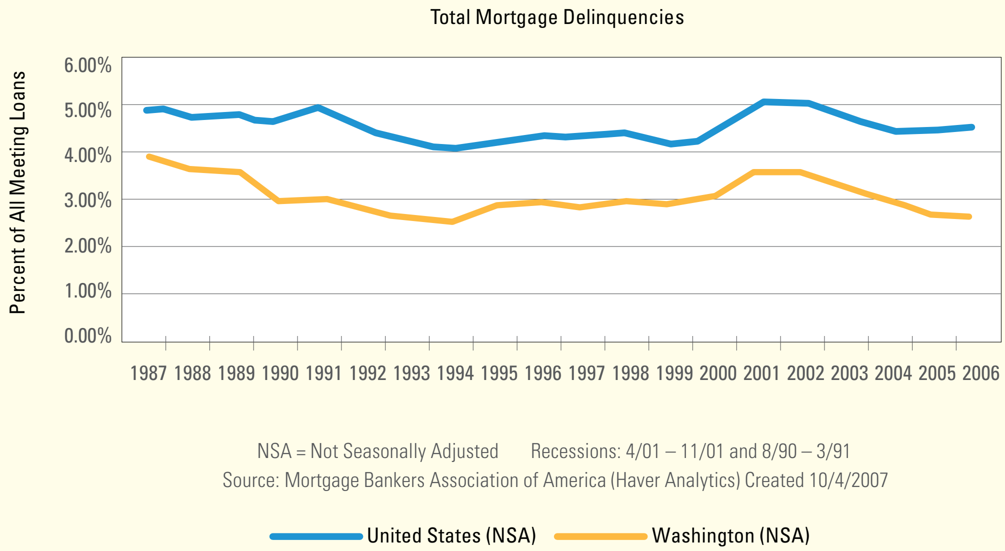
Here at the Commission, we require participation in homeownership classes or counseling for those homebuyers who are borrowers from our portfolio. Homebuyers who participate in this kind of financial education process are far less likely to lose their homes to foreclosure than the general populace. Not only are their foreclosure numbers under 1%, but these are typically borrowers who are at the more vulnerable end of the income spectrum. We think this kind of education helps people make better choices about how much of a home loan they can truly afford, based on their personal situations.

And, of course, what kinds of loan instruments are right for them.

Foreclosures on homes in Washington State: What the current landscape looks like—and what's being done to educate and safeguard homeowners

Historical Delinquency Data: Putting Washington State into Perspective





Source: FDIC

The most recent national numbers rank Washington State 49th in terms of homes in foreclosure. Over the past two decades, our state has lagged national delinquency numbers as well. This does not mean we are insulated from the credit crisis sweeping the U.S. but, points out Washington State Department of Financial Institutions Director Scott Jarvis, "we're in much better shape to survive."

My View FROM KIM HERMAN, EXECUTIVE DIRECTOR

APRIL 2008

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LIZA BEAM, Home Ownership Director, Consumer Credit Counseling Service of the Tri-Cities

A new Hot Line is created: 1-877-894-HOME (4663)

On February 11, Governor Gregoire signed into law **Senate Bill 6272, Expanding Financial Literacy Through Education and Counseling to Promote Greater Homeownership Security.** The bill earmarked $1.5 million to help educate Washingtonians about homeownership issues; much of it will be distributed by the Commission to qualified counseling agencies across the state. The Washington Homeownership Information Hotline and Counseling Program was launched on March 1. The program funds free homeownership counseling to Washington residents thinking of buying a home as well as current homeowners who are struggling with meeting their mortgage payments, or simply have questions about their loans. People in Washington can call the toll-free number above to access the program. There is also an informational website: www.homeownership.wa.gov.

The **Washington State Department of Financial Institutions (DFI)** is overseeing implementation of the program. Some of SB 6272's funding will be applied to outreach efforts, including advertising, to urge people to call to get the information they need to help them make sound financial decisions.

"It's great when people come in and it's not too late."

—Liza Beam

The Tri-Cities: Make the call right away

In the case of foreclosure worries, the key is calling right away. The sooner a homeowner calls, the more time there is available to get to the bottom of what's going on and get started on working out the best response. People in financial trouble are typically overwhelmed and, not infrequently, simply ignore the problem rather than tackling it head-on.

"It's great when people come in and it's not too late," says **Liza Beam.** Liza is **home ownership director at Consumer Credit Counseling Service of the Tri-Cities (CCCS).** Right now, because the Tri-Cities are experiencing a strong economy, "we're probably eight to nine months behind the rest of the state. But we do see that things are beginning to slow down." Many people who secured sub-prime loans were told by their loan officer that they could re-finance their ARM after two years—after they improved their credit. "But if the value of their home goes down in that two years, they're stuck in that ARM with the payment going up beyond what they can afford," she points out. Since home values are stable in the Tri-Cities, people there are still frequently able to re-finance their ARMs to fixed-rate loans.

The bulk of the foreclosures that CCCS is counseling on have been due to bankruptcies. "We're starting to see the signs that a financial crunch is heading our way, but it hasn't really gotten bad yet," Liza says.

Predatory loans are now illegal

Unfortunately, virtually no community is entirely free of the blight of unprincipled lenders. Here's a story Liza told me:

A man walked into CCCS's offices. Because his understanding of English was relatively poor, he'd had trouble understanding the terms of his mortgage. A broker had placed him into a predatory loan. If that weren't bad enough, a different lender had just offered to 'help him out'—by refinancing his mortgage into a loan that was even worse. "The fees were outrageous. We referred him to DFI to file a complaint," Liza says. "We've seen a number of cases like this. Non-English speakers seem to be a large target for predatory loans. And they get taken advantage of."

Fortunately, predatory loans are the exception to the rule. And, happily, under recently passed **Senate Bill 6381** [see sidebar], it is now illegal for mortgage brokers to steer people into sub-standard loan agreements that clearly present a conflict of interest.

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The Homeownership Security Act (SHB 2770). This act includes most of the Task Force's recommendations on homeownership security, responsible mortgage lending, and improved protections for those who hold residential mortgage loans. This includes the requirement to make full disclosures to homeowners, restricting prepayment penalties, prohibiting steering homebuyers into sub-standard loans, prohibiting negative amortization on sub-prime products, and protecting homeowners against mortgage fraud scams. It also requires mortgage brokers to act in good faith.

Expanding Financial Literacy Through Education and Counseling to Promote Greater Homeownership Security (SB 6272). Provides free homeownership counseling to Washington residents; a financial literacy task force related to this bill will be established.

The 2008 Washington State Legislature passed six new laws to protect, educate, and assist homebuyers

Establishing Fiduciary Duties for Mortgage Brokers (SB 6381). Creates higher fiduciary standards for mortgage brokers, including the requirement of acting in the best interests of the borrower.

Protecting Consumers by Regulating Loans Under the Consumer Loan Act and Mortgage Broker Practices Act (SB 6471). Expands the licensing requirements for lenders to consumers in Washington State.

The Real Estate Settlement Services Act (SSB 6847). Prohibits real estate licensees, escrow agents, mortgage brokers, and others from giving, soliciting, or receiving kick-backs or inducements for referrals from title insurers; also requires title insurers to publish rates and fees to allow homebuyers to shop for the best value.

Creating the Smart Homeownership Choices Program (SSB 6711). Creates the Smart Homeownership Choices program and makes available $250,000 for mortgage assistance loans to help prevent mortgage defaults.

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"It all comes back to the lack of education," says Liza. "Often clients don't realize that they may be able to get a better deal through a bank than through a broker. No one has ever told them that. We talk about that at our homebuyer classes, educating them about the yield spread premium—the client believes it's not costing him anything, yet the bank is paying the broker a commission to put that client into a higher interest rate loan."

Seattle: First-line defenses for homeowners

For **Linda Taylor, housing director of Urban League of Metropolitan Seattle (ULMS),** homeownership counseling, clear disclosures from lenders, and financial literacy are all first-line defenses for homeowners. It's simply not enough to wait for those referrals of homeowners in crisis from HUD, banks, lenders, and community organizations. Linda and other representatives of ULMS are continually taking the message of financial literacy to schools and churches, "and just generally networking with other nonprofit organizations," she says.

LINDA TAYLOR, HOUSING DIRECTOR, URBAN LEAGUE OF METROPOLITAN SEATTLE

One of Linda's strongest agendas, which she brought to the Task Force's Consumer Education and Counseling Committee, is pushing for greater teaching of financial literacy in schools at all grade levels. At a recent Rotary Meeting in Renton, she notes, she spoke with a number of teachers who were implementing these concepts: One was a kindergarten teacher.

Financial literacy "truly is a work in progress in our community," Linda says. "The Urban League does it now. We have financial literacy classes that we hold in churches. And of course we have childcare: We take that childcare and turn it into some type of financial literacy teaching. Whatever the topic was the week before, we give the parents cue cards to sit and talk over with their children at dinner, which is a big piece of it."

In her organization's homeowner counseling capacity, Linda is seeing an ever-increasing need for people to have a full understanding of the terms of their mortgage, their budgets, and how much debt they can realistically take on. Here's one example:

A woman came into ULMS's offices for help. She was defaulting on her mortgage. "I called her 'Miss Neat,'" Linda recalls. "All of her paperwork was in order." She had written up her budget, and she was $400 over. As Linda helped her go through her monthly payments, the woman discovered that, for many years, she had been unknowingly paying a monthly bill for one of her children. It was an automatic deduction for a student loan. "We called up her kid and gave him that bill. Her budget got in line and she's now on track. We helped her to take a look at her budget," Linda sums up. "She came in as a default, but it was a budget issue."

ULMS serves not just residents of Seattle, but the greater King County area, as well as Snohomish, Pierce, Island, and Kitsap Counties—and even Spokane. Many individuals are contacting ULMS's counseling program about ARMs that are resetting; the number of calls coming in for help have more than doubled. "I'm picking up calls off my Blackberry, I'm calling people over the weekends. People are panicking. We have five counselors, which is nowhere near enough," Linda says.

She points out that, for some low-income Seattle residents, the City of Seattle's Foreclosure Prevention Program, announced in January, is helping ease the pressure on homeowners at risk of foreclosures. The program is administered through ULMS and Solid Ground. Stabilization loans of up to $5,000 are coupled with counseling. Through the program, homeowners can use the loan to either avoid default by working through a repayment plan to stay in their home, or gain enough time to sell their homes on their own terms.

Right now, Linda explains, negotiating for short sales of homes is a growing trend. A short sale occurs when a home is sold and the lender agrees to accept less than the total amount due, and release the lien secured to the property. ULMS will be offering a class in "short sales" on May 6th; another class will

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be "Beware of Looser Loans." These classes are geared toward real estate agents and each carries three hours of continuing education credit. You can contact ULMS at (206) 461-3792 for more information.

"We can often still sell homes in our area—it might take a little longer to sell but homeowners are not always selling on their own terms," Linda says. "We want to assist individuals in empowering them to sell on their own terms, and that's where, at times, that $5,000 might come in. The funding is there to help people."

Spokane: Some egregious practices—but also many upbeat outcomes

Like Seattle and the Tri-Cities, Spokane's housing market is enjoying a period of relative stability. "From about 2005 on, our market grew, with good appreciation," says **Ray Rieckers,** who directs the **Housing Opportunities Division at Spokane Neighborhood Action Programs (SNAP).** "It has continued to do so, particularly at the low end of the market, despite what's happening nationally. Correspondingly, we have not seen those numbers of foreclosures here." Spokane did experience a higher rate of foreclosures from about 2002-2005, when the housing market was fairly stagnant, he adds.

Ray has been an affordable housing advocate for three decades, and has seen more than his share of housing tragedies. He saw the writing on the wall about sub-prime mortgages years ago. SNAP commissioned a study in 2002 to examine the impact of sub-prime mortgages on foreclosures in the Spokane area. "It was a tedious process. We looked at foreclosures between 1993 and 2000 and found a huge growth in sub-prime lending. There seemed to be a correlation—of course there were a lot of variables at play—but the growth in subprime loans was almost exactly the same as the growth in foreclosures. We printed an initial summary of the report ... and no one in the industry paid attention to it."

For Ray, some of the "real mortgage horror stories" are related to homebuyers' stated incomes. "At SNAP, we were being approached regularly with debt-to-income ratios that made us very uncomfortable, by brokers or lenders wanting us to participate in second mortgages. We see things today, people coming in with an income of $2,000 a month and they have house payments of $1,500 a month. Those are the most egregious practices that we were seeing—banks willing to issue on that kind of situation."

Most typically, the people who are coming in for counseling at SNAP today are homeowners who have lost their jobs and income and are seeking a forbearance from their lender. A forbearance is a deal cut with the bank that will help them catch up. "We're pretty good at negotiating these," says Ray. "We saw a little over 200 homeowners last year who averaged four months behind on their mortgage. 118 of them were able to save their homes."

Ray emphasizes that homeownership counseling, particularly for those facing foreclosure, is much more than just punching in the numbers. "You can't divorce the person from the problem," he says. "A lot of our work is not just arranging forbearance agreements, it's staying with the client and supporting them, helping to restore a loss of confidence."

RAY RIECKERS, DIRECTOR, HOUSING OPPORTUNITIES DIVISION, SPOKANE NEIGHBORHOOD ACTION PROGRAMS

A Spokane-area woman was laid off from work. She'd been at that particular job for a while—"just barely making it," Ray says. The woman was facing losing her home because she wasn't making the payments. She was encouraged by her SNAP counselor to enlist the services of the local employment security agency and get some job training. In the end, she was able to secure a better job and hold onto her home.

Ray tells another story with an upbeat outcome. The local offices of Windermere Real Estate, through a program that distributes 2% of brokers' fees to help the community, donated $10,000 to SNAP. The initial intent was to assist two families in meeting their mortgage payments. But these families were able to resume payment on their own, and the remaining funds were used to assist additional families in need. More than six families

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The experience of losing one's home to foreclosure can be a nightmare. Often homeowners are facing stark choices. This stress can be compounded by family illness, divorce, or death. Foreclosure notices are often written in dense, difficult legal language. Foreclosure scammers may be besieging homeowners' doors. And trying to get loan servicers on the phone, and to be treated by them in a civil manner, is the stuff of legend.

There's a very simple step in making the foreclosure process more straightforward and less stressful: Enlisting the help of a housing counselor. The counselor can help the client arrange a forbearance agreement. Or if the home can't be saved, the counselor can help homeowners get perspective and exit with as much dignity, security—and, hopefully, equity—as possible.

Housing Counselors: Opening the doors of communication during the foreclosure process

Liza Beam: "We sit with the client and walk them through the legal language. Everyone in default wants to know what the foreclosure process is, what their options are. They don't realize that the mortgage companies have departments dedicated to getting them help. They do have options. Collections agencies often tell people that they have no choice other than to get current with their payments. That's not so. Usually when the loan is three months delinquent, it goes to a whole different department. And this department wants to help people.

"Homeowners don't realize that just coming to us can open the doors of communication between them and their lender. They're not as nice to the client as they are to the counselor. Mortgage companies will talk to us, and most of them try to work something out as long as it's feasible. It costs mortgage companies so much more to foreclose on a house than to work out a repayment plan. It's in everyone's best interests."

Ray Rieckers: "Frankly, without a housing counselor, the attitudes of servicing organizations are not all that positive. This changes substantially when we call in participation with one of our clients.

"The process is extremely time consuming. You're often dealing with a servicing oufit in Indianapolis or somewhere in the Midwest. The supervisor could be in another state, the attorney elsewhere still. You call back; the waits are substantial. Basically, with the frontline servicers, their job is to get the client to pay—they don't have the power to negotiate. So then you've got to get to the supervisor for approval. It takes at least two or three calls to servicing organizations to arrange a forbearance agreement."

Marvelle Lahmeyer: "A lot of people sit here and cry because they don't want to lose their home. But I ask them: 'Wouldn't you feel better if you could afford to buy groceries for your kids?' Once you put it into perspective, most people say something like: 'Okay. We got screwed. But we can live through this.'

"...And the process often does work. Even if families are six months to a year behind, it still works—if they want to keep their house and they have equity in it. I'm glad I have a speakerphone. Some servicers put you on hold for an hour. They are overtaxed. A loan officer today told me he had 300 active files. They're overworked, and they're understaffed. We think we have a hard job. The mortgage companies are having a hard time too. But they're very willing to work it out."

Linda Taylor: "I think the financial institutions that are negotiating with the consumers are doing better. A lot of them are recognizing the need for housing counselors and have established dedicated lines for us. We're seeing that more and more—they're more available. But then they are also at capacity.

"Often, when people come in for counseling, they haven't necessarily been served a notice, they're just trying to figure out what kind of loan they already have. I often think of this process as a homebuyer class—but after the fact."

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of modest means were given enough funding to meet one or more back payments and save their homes.

The Olympic Peninsula: Depressed housing markets hinder re-fi's

Marvelle Lahmeyer, who is **lead housing counselor** with **Kitsap County Consolidated Housing Authority (KCCHA),** has already been getting calls coming in on the Washington Homeownership Information Hotline. "The 800 number is helping people who just have a lot of questions, like 'I'm not behind but my ARM interest is going to adjust.' Or 'I have an 80/20 loan and I'm really having trouble making ends meet.' So the number is helping a lot of people who have questions before they get into foreclosure," she says.

All told, Marvelle's agency counseled some 50-60 people in default in all of 2007. "And we're well above triple for that already—and we're only into our second quarter." KCCHA covers Kitsap, Mason, Jefferson, and Clallam Counties on the Olympic Peninsula, and housing counselors are working over the phone with callers from Tacoma and Seattle as well. The housing market on the Peninsula is depressed. Properties are sitting on the market for a long time. "A couple who lost their home to foreclosure called me the other day," Marvelle says. "Their house was put up for auction, but no one even put in a bid."

Marvelle is seeing a lot of people with ARMs that are set to adjust. Two-year ARMs began adjusting in the latter half of 2007, and "now the three-year ARMs are all coming up this year," she says. "All of these loans were done in 2004 to 2006, so I don't think we're going to see our way completely out of it until 2010, since some are five-year ARMs."

A big portion of the people she's counseling are under 35, first-time homebuyers who got ARMs or 80/20 loans. "They weren't able to pay from day one, and have hung in for a year, or a year and a half. They're upside down on their equity. Most of them are doing what's called a sale in lieu of foreclosure. And they're the lucky ones, because they get to sell their homes—the lender doesn't necessarily agree to take less, but I haven't seen any of them sue the homeowner for the difference. The homeowners are basically walking away from the home and moving into a rental."

One bright spot, says Marvelle, has been the FHA loans made available by the federal government. "The FHA loans are working, and people are able to refinance. These loans are at a very good interest rate right now. They will take care of people who are not in default—but you can't be in default and refinance with an FHA loan." Like all the experts I spoke with, she's urging people to call before they're in trouble. Currently the FHA is not looking at credit scores, so as long as homeowners don't have lopsided debt ratios and are not in default, ARM holders can refinance to a conventional loan if their timing is right.

A lot of ARMs, explains Marvelle, carry significant prepayment penalties. Six months' interest on a loan can be $12,000-15,000. "If you come to get refinancing 30 to 45 days before the ARM is going to adjust, that gives the lender enough time, and they'll close the new loan on the day their prepayment penalty expires."

The news from the Peninsula and KCCHA isn't all bad. "I had a success just today," Marvelle says:

MARVELLE LAHMEYER, LEAD HOUSING COUNSELOR, KITSAP COUNTY CONSOLIDATED HOUSING AUTHORITY

A couple living in Tahuya, on the Hood Canal, were six months behind on their mortgage payment. They held an ARM, and the interest was going to adjust up to 11%. The lender didn't refinance, but they did a loan modification—when you're behind, the whole structure of the loan can't be modified, but the finance portion can. The lender took the six months' past due, which was almost $18,000, tacked it onto the end of the loan, and lowered the interest rate to 8% term fixed. "That was a great success story," says Marvelle. "It only took about three weeks from start to finish. The loan company was great throughout the transaction."

Sometimes, if clients aren't too deep in the hole, Marvelle says, they've been able to draw on funding from the counties through the state's Homeless Housing and Assistance Act (HB 2163). Up to $1,000 can be made available to help qualifying families get back on their feet and save their homes to prevent homelessness. This is a stopgap measure, however, that covers only one month's worth of mortgage payments at best. "If you're going to do a loan modification or forbearance agreement, the lender wants a downpayment. You have to come in with something—especially if you haven't made a payment for six months. Sometimes that $1,000 can be a downpayment to get an agreement, to help a family keep their home.

"It is going to get better," she concludes. "Two more years and I think we'll be through this."

Defending people in foreclosure against scams

As a Seattle-based attorney with **Northwest Justice Project, Fred Corbit** frequently represents homeowners of limited means who have been defrauded while facing foreclosure. Before taking on his current role last year, he was a partner for 20 years at the international law firm of Heller Ehrman, and chaired the WSBA Creditor/Debtor Section. Fred has seen just about every dirty trick in the scammers' handbook. "If I could have just two minutes to speak with people in foreclosure," he says, "I can help prevent them from making a lot of bad decisions."

Unfortunately for many, those two minutes have come too late. By law, 90 days before a foreclosure, the executing trustee has to file public notice. Anyone can read these published notices, check out the homes in question, and cook up a plan to defraud vulnerable homeowners of their homes and savings. Frequently, a homeowner under this kind of foreclosure pressure doesn't understand the process and "thinks they're going to lose everything," says Fred. Here's the case of one of his clients:

A single mom with two young twin daughters moved in with her ill grandmother in West Seattle to take care of her. The grandmother eventually passed away, and the woman inherited her house, which was small and needed work, but was in a nice area on a quiet street in the Admiral neighborhood. The mom had a bad back from an injury at work, was not making a lot of money at the time, and got behind on the $50,000 mortgage on the home.

The house went into foreclosure, and the woman was too embarrassed to tell her family that she was in peril of losing her grandmother's home. 90 days before the foreclosure, the notice was publicly filed. At the time, no house in the Admiral district was worth less than $200,000, and this home was going to go into foreclosure for less than $50,000.

Several young, well-dressed men began showing up at the homeowner's door, asking her what she was going to do. They were polite men who came repeatedly, runners for a man who bought properties. They gave her a brochure that read, 'We don't want to buy your house—we want to make sure you can keep your lights on. We've got options for you, we're affiliated with nonprofits, we're here to help.' She wanted to keep her home, and she wanted it to be true. "She was sold a bill of goods," says Fred. They took title to the property, which allowed them to pay off the mortgage and keep the rest. She got an option to repurchase the property, along with a used Ford, a laptop computer, and the promise of being taught the business of currency trading from her home.

They were good salesmen. Maybe this was too good to believe, but they told her it could happen .... and she believed them.

The silver lining to this story is that, although she lost her home, at least this young mother was able to secure the representation of an attorney of the caliber of Fred Corbit—and have her day in court. "This was fraud," he says. "Representations were made that were false, including 'We don't want to buy your property,' and 'We're affiliated with

FRED CORBIT, ATTORNEY, NORTHWEST JUSTICE PROJECT

nonprofits.'" Through the legal process, Fred was able to get her the ability to live in the home a little longer, and get settlements—of about $90,000 along with unsatisfied judgments for the remainder of her equity in her former home.

Recently passed SHB 2770 "will make it easier to prove these cases in the future," says Fred. "There are now provisions that would have allowed her to rescind the transaction right after it took place. More disclosures will have to be made. And there are more penalties."

One of the many good things about SHB 2770 is that now, when residential property owners get their notice of default 120 days before a foreclosure sale (and 30 days before the public notice), clearer language about their rights and options will be required to be stated prominently at the beginning. This includes information about legal rights, the potential to sell the property to preserve equity, warnings about scammers, and the possibility of free counseling and legal services for those who qualify.

Hopefully, we'll see fewer mortgage rescue scams with the advent of this bill, but here are a few other scams Fred has seen—and advises people to be on the lookout for:

"We'll preserve your home and you can buy it back later": *Scammers tout this service, even though, to Fred's knowledge (and the Attorney General's) this option has never actually been exercised. Scammers have been known to take title to the home and then refinance the property, loading it up with a greater amount of debt than it originally had.*

"We'll give you cash right now before foreclosure": *If homeowners don't realize they have access to equity in the property, they'll take $5,000 or $10,000 from the scammer for the title, thinking it's better than nothing. The scammer keeps all the equity in the home.*

"Let me cure your credit": *Sweet-talking scammers have been known to take advantage of desperate, defaulting homeowners—leading them to believe that if they cough up their last $1,000, the scammer will fix their credit for them.*

Another valuable piece of advice from Fred: Sometimes when the homeowner has no equity in the home and no ability to make the payments, he or she can at least try to regroup. From the date of a notice of first default, a foreclosure sale can't take place for at least 120 days. And after foreclosure, there's a 20-day grace period to vacate the property. During that time, Fred says, "You don't have to make mortgage payments or pay real estate taxes." This can buy time to save up the first and last months' rent for a place to move to. "Not everyone is going to save their house. There's not equity for everybody. People should know what their options are."

"If I could have just two minutes to speak with people in foreclosure, I can help prevent them from making a lot of bad decisions." —Fred Corbit

Fiduciary standards for mortgage brokers

On the Task Force, Fred pushed hard alongside all of us for creating higher standards for mortgage brokers. This ultimately resulted in the passage of **Senate Bill 6381,** which created a higher fiduciary standard. Brokers now must act in the best interests of the borrower, and meet a considerable amount of disclosure requirements, including no undisclosed compensation.

Our debate was about what kind of duties the broker should have. Fred describes it like this: "Everyone agreed that there should be no steering and full disclosure and a duty of good faith. The question was whether it should go as far as a fiduciary duty—like that of a lawyer or doctor. This means the person owing the duty must put the interests of the other person ahead of his own. But that doesn't mean if you're a Ford dealer you also have to sell Chevys. What was passed in the legislature is described as a fiduciary duty, but what the broker actually has to do is specified by the statute. I think it's a fair compromise; the good brokers won't have any problem living by it—and it will prevent harm."

Pressure on housing at every level—but in good shape to survive

The Task Force frequently drew on the wisdom and financial experience of **Scott Jarvis,** who heads the **Washington State Department of Financial Institutions (DFI).** Scott has been working in financial regulation in the state for more than 30 years, with the insurance department, as counsel with the state Treasurer, and in two tours at DFI. "I've been around for a while, and I've seen a lot of business cycles," Scott says. "The nature of our business economy is that we have excesses that we wring out of the system. But this time, the excesses seem rather extraordinary. There's no instant solution, but the pressure on housing at every level is extraordinary."

Scott happens to be extraordinarily articulate, so in conclusion, rather than paraphrasing him, I'm going to share a few of his on-target observations:

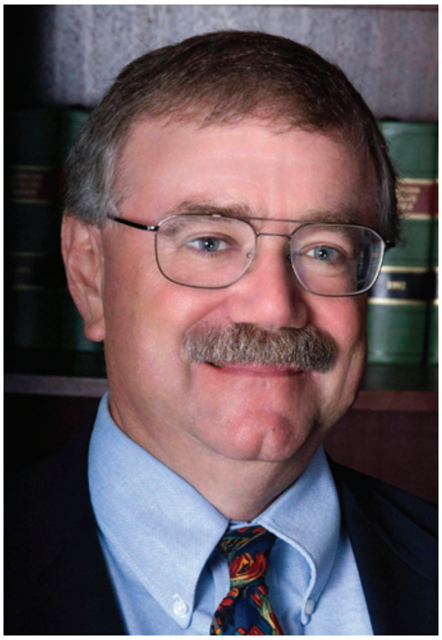
The global economy. The world has money to lend. It's not a question of whether or not the money is out there. The question is whether the investors who lend the money trust the systems we have in place to give them a return.

Consumer protections vs. free markets. As a state, we need to come up with systems that do the job of protecting the public without over constraining the ability of lenders to

My View FROM KIM HERMAN, EXECUTIVE DIRECTOR

APRIL 2008

Foreclosures on homes in Washington State: What the current landscape looks like—and what's being done to educate and safeguard homeowners



"As a state, we need to come up with systems that do the job of protecting the public without over constraining the ability of lenders to operate and investors to invest."

—Scott Jarvis

SCOTT JARVIS, DIRECTOR, WASHINGTON STATE DEPARTMENT OF FINANCIAL INSTITUTIONS

operate and investors to invest. That's a very difficult challenge when you consider all the regulators involved at the federal and state levels, the various interests, and different product lines. People around the world want to invest in the American market but won't do so until they have confidence that their investments are going to be reasonably safe.

Our state economy. It's important to emphasize that a sound economy drives the housing market. That's why Seattle-area house prices, for example, are stable. Keeping that in mind, our housing market relative to the rest of the country is in good shape. We're obviously not immune. We will be impacted. But we're in much better shape to survive this. That's the framework in which we talk. Having said that, the fact remains that there are people who are struggling in our state who need help.

Financial literacy. Financial literacy and consumer education is an issue that we've tried to push for years. It's been under the radar, but now people are finally paying attention to it, realizing that 'if you just knew a little more... you might not have done this.' The next Task Force will give us a lot of suggestions as to how to best do it, but it has to be almost a cradle-to-grave issue.

Federal interventions. Overriding all of our state efforts is the question of what Congress is going to do. And what the U.S. Treasury is going to do. They can pre-empt us or go beyond us. But it's on the national radar, and lending as we know it will be dramatically different—it's already different from this time last year. It will be different a year from now.

Act now. I'd like to say, this too shall pass, but it's going be a painful year or so. The first thing you do is arm yourself with financial education: Before you sign anything on the dotted line, make sure you know what you're purchasing, that you can afford it, and it's what you want. And if you're already in a difficult situation, get help, and get it now. Don't wait. Every day that ticks by puts you in greater jeopardy.

We can't give an answer or a solution for every person's situation. There are some people who will simply not be able to afford their homes, but for others there are opportunities to adjust their contract, look at alternatives, or even leave more gracefully than a foreclosure action, and come back someday for homeownership. Act now. Get informed.

Act now. Get informed: Four crucial words for homeowners.

And keep this number handy for someone you know in Washington State who might benefit from it: 1-877-894-HOME (4663).

WASHINGTON STATE
HOUSING FINANCE
COMMISSION

1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046
206-464-7139 or 1-800-767-HOME (4663) toll free in Washington State

For more information about the Commission and its work, visit **www.wshfc.org**

WASHINGTON STATE
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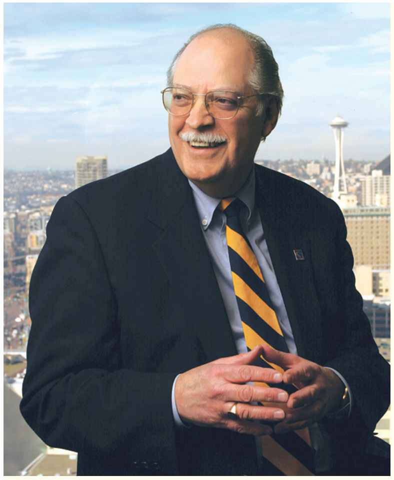
COMMISSION

Opening doors to a better life

My View FROM KIM HERMAN, EXECUTIVE DIRECTOR

JULY 2009



A unique, "inside" perspective on housing and community development from the executive director of the Washington State Housing Finance Commission.

Inside this Issue

Foreclosures on homes in Washington State (part two): As the crisis has deepened, what's being done to meet the challenge?

When *My View* first took on this topic in the April 2008 issue, chief among the causes was sub-prime loans. At that time, Washington ranked 49th nationally in the number of foreclosures. Now we're closer to the middle of the pack. My goal for this issue is to update readers on the foreclosure picture in Washington State. I've reconnected with four of the counselors engaged in HUD-certified foreclosure counseling whose perspectives I shared in April 2008. Five additional hard-working counselors from across the state also weigh in, along with several federal and state officials who are working to help Washington families.

In Washington State, home mortgage delinquencies and foreclosures continue to grow. Although we don't rival states like California, Florida, Nevada, and Arizona in terms of the severity of current foreclosures, several of our communities are being pounded by a pernicious set of circumstances. These include high unemployment rates, more resets of sub-prime mortgages, decreasing real estate values—and the resulting glut of foreclosed properties on the market. The residents of Tacoma and Vancouver, Washington are among the hardest-hit.

The recession is deepening the instability of our statewide housing markets, even as some signs of stability are appearing in Seattle. Mighty efforts are being made to help individual homeowners; nonprofits and government agencies are working on systemic, long-term solutions. This concerted endeavor is receiving support from the highest levels of our state government and continues all the way through to the one-on-one counseling made available at no charge to homeowners in trouble.

Much work remains to be done, as the financial hardship for so many families continues. Foreclosure prevention efforts are critical: We all need to keep getting the word out to borrowers that getting help early makes a huge difference in their potential for working out a solution with their lender.

Foreclosures on homes in Washington State

Vancouver / Clark County

High unemployment triggers foreclosures—the state's highest

Stitched tightly into Portland, Oregon's greater metropolitan area, Vancouver, Washington, is experiencing the fallout from this region's high unemployment numbers. "We have the highest foreclosure rate in Washington State," says Teri Duffy, Executive Director of Community Housing Resource Center (CHRC). "We also have the highest unemployment rate." Teri quotes recent unemployment figures for the Portland metro area at 12.3%. May numbers from the Washington Employment Security Department put Clark County's (Vancouver is the county seat) unemployment at 13.2%.

Over the last nine months, CHRC's one foreclosure counselor has worked with 450 households. "Karin is very very busy," Teri says. "She does an average of 50 one-on-one counseling sessions per month. And the majority of those cases are still open."

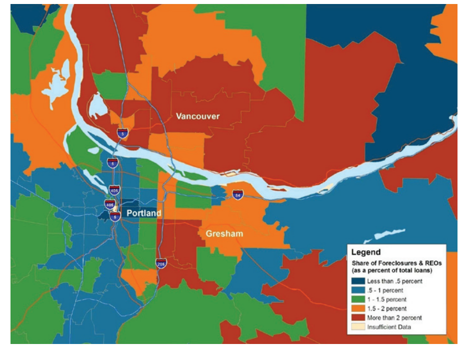
For most, the experience of foreclosure is slow torture. It takes weeks, and many calls, to get answers. Virtually no one saw this crisis coming—and that includes the loan servicing companies, who are still trying to get up to speed on the flood of calls from borrowers and counselors. Everyone is overworked. Plus, the way home loans were packaged and sold to investors over recent years means more layers of red tape, as the servicers are challenged at times to figure out which financial entity actually "owns" a particular loan to get their sign-off on new mortgage terms.

TERI DUFFY Executive Director, Community Housing Resource Center

Teri estimates that, of the 450 cases cited above, 300 are still "open"—with no resolution yet reached. "We have switched how we do business," she says. "Now, people need to come to a workshop first." This is done to make the entire process more efficient. CHRC holds these workshops on Thursday evenings. "We had 34 people here last week. At that time Karen goes into detail on what the foreclosure process is about, the general nature of what's happening in the industry, and what people's options are."

A flood of homes for sale—and a three-week wait for counseling

At the workshops, each household gets a 14-page packet of information. They learn what's required and what documents they'll



PORTLAND/VANCOUVER AREA DATA MAP
Areas of Concentrated Foreclosures. February 2009

need to gather. When they get that information together, they are welcome to call back to schedule one-on-one counseling services—but right now there's a three-week wait for appointments. "Some will decide to go through the foreclosure prevention process on their own with the information provided. Others realize, particularly if they're unemployed, there's not a lot of options."

For Vancouver, sub-primes were "last year's issue," Teri says. "And they haven't been as much of a problem here as they were in high-cost housing areas." Rather, it's the "two-edged sword" of unemployment, compounded by a hard-hit real estate market that's seeing a flood of homes for sale. Delinquent borrowers frequently don't have the option of selling their homes before foreclosure closes in.

CHRC's mission is to provide financial and housing counseling and education services to its community. Teri's counseling "bias," she says, is face-to-face counseling, "to actually work through the negotiations with the lender, putting the loan package together, analyzing the homeowners' financial picture. We have people who will come from

Foreclosures on homes in Washington State

as far as the coast, throughout Southwest Washington."

Teri makes one last point: her gratitude for the support that CHRC and other counseling agencies have received. "The Commission, DFI, the Governor's office and others really stepped up in terms of political leadership, acknowledging the need and the hard work it takes, securing and administering grants to fund it.... The income from state and federal grants helped keep the doors of this agency open."

Foreclosure numbers and prevention programs: A brief overview

The number for Washington State homeowners to call to connect with a HUD-approved counselor is **1-877-894-HOME (1-877-894-4663)**.

A recent Foreclosure Filing Activity Report by RealtyTrak ranks Washington State at 26th among U.S. States. During the month of April 2009, **there were 3,359 foreclosure filings in our state**, or 1 out of every 817 homes. This represents a change of +33.9% from April 2008.

Other surveys give a somewhat different picture. According to the Mortgage Bankers Association's (MBA) May 28th National Delinquency Survey, **Washington State ranked 45th in delinquencies and 40th in foreclosures started** at the end of Q1 2009. The delinquency rate for mortgage loans on residential properties in our state was 5.2%. This number excludes loans in the process of foreclosure. The percentage of loans in the foreclosure process in Washington State at that time was 1.81%, vs. a national average of 3.85%.

Also based on the MBA Survey: **Nationally, prime fixed-rate loans now represent the largest share of new foreclosures.**

Making Home Affordable is the Obama Administration's foreclosure prevention program, passed by Congress earlier this year. The program offers incentives to financial institutions, loan servicers, and qualifying borrowers to reduce borrowers' debt-to-income (DTI) ratios and enable borrowers to save their homes and to continue to make mortgage payments successfully. Making Home Affordable also matches some of the funding reductions lenders make on borrowers' mortgage payments. The goal of the program is a 31% DTI ratio for homeowners.

24 nonprofit agencies are providing state- and federal-funded foreclosure prevention counseling across Washington State. Federal funding has come from two sources: the HUD Housing Counseling grant and the National Foreclosure Mitigation Counseling Program grant administered through NeighborWorks. Our Washington State Homeownership Information Program Grant funding ended on June 30, 2009. We're now fortunate to have access to a special-purpose grant, the Neighborhood Initiative, which was secured by Senator Murray. This grant ($500,000) will help cover foreclosure counseling in Washington State for a two-year period, beginning July 1, 2009.

The Commission administers these state dollars and a portion of the federal dollars for HUD-certified foreclosure counseling. Our sub-grantees assisted 2,681 households in the last 12 months. **Out of this number, 2,644 avoided foreclosure, as only 37 foreclosed (through May 31st). That's a success rate of over 98.6%.**

Foreclosures on homes in Washington State

Tacoma / Pierce County

One foreclosure counselor sets up shop in a foreclosure-inundated area

Out-of-state statisticians often lump Tacoma with the greater Seattle metropolitan area in determining unemployment numbers. The Bureau of Labor Statistics put that number at 8.8% in May. But when it comes to foreclosures, delinquent home loans, and REO (real estate-owned) properties, Tacoma/Pierce County has been struggling with a deeper foreclosure crisis, per capita, than the two counties to the north, King and Snohomish, that comprise the Seattle metro area.

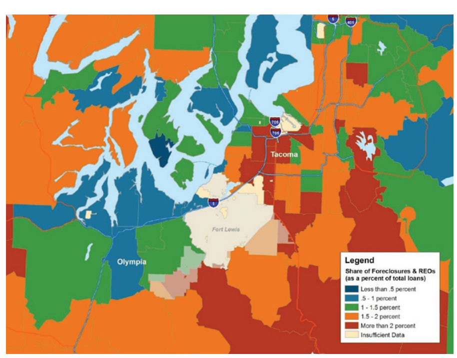
Says Shawna Hardeman, Homeownership Program Coordinator for Tacoma-based PC2, "Homes are generally more affordable here than in King and Snohomish Counties, and we were targeted for a lot of predatory loans. Many minority populations have been hit hard." PC2 is a parent-driven nonprofit that serves as a resource for people with developmental disabilities, but its foreclosure counseling services are available to anyone in need.

Tacoma/Pierce County's is not just an inner-city predatory loan story, however. Many foreclosed properties are casualties of the runaway development that took place during the housing boom. Much of the area to the east and south of Tacoma, which is generally less populous, has seen high numbers of foreclosures—and is also at risk for significant additional foreclosures. Many were higher-priced homes in the $400,000-$500,000 range, financed with risky instruments like ARMs. "It will be a challenge to get those homes occupied again," Shawna says.

NSP: Addressing the impact of abandoned and foreclosed homes

In Tacoma and Pierce County, these empty homes are a growing problem. The federal Neighborhood Stabilization Program (NSP) is an important part of the turnaround strategy. NSP's stated aim is to address the impact of abandoned and foreclosed homes in communities. These homes are purchased and then rehabilitated for a wide range of community goals, including low-income and special-needs housing, and transit-oriented development.

As Shawna points out, of the more than $28 million already allocated to Washington State for the first NSP grant (NSP1), Tacoma and Pierce County received close to one-third of the total. Now the state is in the midst of a second NSP grant application (NSP2) to apply for a further $50 million in NSP funds. One stunning statistic from the grant draft is the absorption rate: an estimate of how slowly the housing markets in hard-hit, targeted areas are likely to absorb (sell) foreclosed residential homes and condos. For about 30 of Pierce County's census tracts, it's estimated that it will take more than *450 months* for all the foreclosed homes to be absorbed.



TACOMA AREA DATA MAP
Areas of Concentrated Foreclosures. February 2009

SHAWNA HARDEMAN Homeownership Program Coordinator, PC2

Surprisingly, Shawna's phone is not ringing off the wall. Not yet at least. She's been working for PC2 for about a year as a financial and homebuyer education counselor. Earlier this year, she was able to take advantage of the free HUD-certified foreclosure counselor-training program administered through NeighborWorks. She started taking on foreclosure cases in April; she opened about five new cases each in April and May, and about double that in June.

"Shawna is getting the word out that her agency is offering free foreclosure counseling: "No one else is specifically doing counseling for homeowners with developmental disabilities in Pierce County." She cautions, "For homeowners at risk, the sooner they can call or come in the better. It's just taking so long right now-30 to 45 days-just for the servicer to look at an application."

WASHINGTON STATE HOUSING FINANCE COMMISSION

My View FROM KIM HERMAN, EXECUTIVE DIRECTOR JULY 2009

Foreclosures on homes in Washington State

Colville / Ferry, Pend Oreille, and Stevens Counties

Rural communities hit hard by layoffs

Rural Resources Community Action (RRCA) works with residents of the three counties in the northeast corner of the state: Ferry, Stevens, and Pend Oreille. Jan Owens, based in the town of Colville, is RRCA's housing counselor and homeownership coordinator. She's worked in this role for close to nine years. "Our community has been hit pretty hard. A lot of our local businesses are just hanging on," she says.

The three counties that RRCA serves are mostly rural communities, with economies that depend heavily on a few large lumber and manufacturing employers like Boise-Cascade and Colmac Coil Manufacturing. These and many other local firms are implementing sizeable layoffs. Jan says her numbers of foreclosure counseling clients are on the rise as a direct result of the local economy: "Lack of jobs, hours being cut, people being laid off."

She cites the frustrations she's been experiencing with one counseling case as emblematic of the maze-like foreclosure process. This family has been denied a loan modification three times. Both she and the homeowner believe that the negotiator has been calculating the borrower's income incorrectly—he's a truck driver with a per diem that's tricky to decipher. "The servicer won't allow my client to talk to them. They won't speak with me either. They've lost their documents several times. The lenders and the servicers are just bombarded. Their caseloads are so high. And they are overwhelmed with loan modifications."

Right now, Jan is default counseling about five households holding sub-prime loans. She cites a telling statistic: None of the homeowners in foreclosure whom she's counseled had previously gone through a homebuyer education program. "Most of my clients are three to six payments behind. The foreclosure process has already been accelerated. Homebuyer education is absolutely vital as a foreclosure prevention measure. It keeps people out of predatory lending, and helps ensure that people don't get in over their heads." Even if people can't avoid losing their homes, she explains, if they've been in a homebuyer class, they know the key to a clean exit is to sell quickly. "You need to avoid foreclosure if at all possible. Even a short sale is avoiding foreclosure."

Foreclosures are impacting many other aspects of Jan's work in housing assistance. One change is an increasing number of pre-purchase counseling clients walking through her agency's doors. "Right now is a pretty good time to buy. Home prices are coming down. I have a few clients who are making offers on foreclosures," she points out. And unfortunately, she and RRCA are also seeing a growing squeeze on affordable rentals. "These are few and far between: the rental vacancy rate in Stevens County is just about zero."

JAN OWENS Housing Counselor and Homeownership Coordinator, Rural Resources Community Action

Helping people retain their homes:
BOA's 410,000+ modified loans nationwide—and counting

A solid recovery from the current housing crisis will require our nation's banks to step up to meet the challenge, one home at a time. Many of those I interviewed for this issue have praised Bank of America (BOA) for its proactive efforts in modifying loans and helping homeowners. I asked Tiarzha Taylor, Vice President of Homeownership Preservation and Advocacy at BOA, to describe her bank's work in this critical area.

Tiarzha's job description—and I'm simplifying here—is working within communities and internally at BOA to help people retain their homes. Tiarzha is based in California but travels frequently across the U.S., with a focus on the West, to organize events and provide trainings that will further BOA's home retention efforts. This includes organizing and attending borrower outreach events similar to the three workshops that will be held in Tacoma, Everett, and Seattle later this month. But it also includes building partnerships with housing counseling agencies, speaking on community panels, and liaising with the bank's internal operations team to help with individual cases.

Three years ago, most banks probably couldn't have imagined the important role that homeownership preservation and advocacy would be playing today. Tiarzha started in her role with BOA about two years ago. "They saw there was a greater need to have dedicated resources in this particular area. Most of our peers within the industry have associates doing this role as well," she says.

A few weeks ago Tiarzha was in Seattle, providing training for about two-dozen HUD-certified housing counselors from across the state. "We realize the value of working in our local communities with housing counseling agencies. The partnerships that we develop with them can help us reach homeowners who we might not reach otherwise. We were able to talk through the loan modifications they're submitting, answer questions, and provide local resources and information."

BOA's first preference, says Tiarzha, is to have its customers "call us directly if they find they're in financial distress or face hardship. But understandably many homeowners seek other resources." She emphasizes that if borrowers choose to turn to a counselor, "we absolutely recommend homeowners speak with HUD-approved counselors. Their services are free, they're certified through the government on very complex technical requirements on home loan modifications—and homeowners are not going to get a better result by paying for that through a for-profit entity."

Foreclosures on homes in Washington State

Significant ramp-ups in staffing—and the qualitative aspects of face-to-face counseling

BOA was one of the first banks to openly support the Obama Administration's Making Home Affordable (MHA) program. BOA had already provided leadership in developing a national home retention program of its own, Tiarzha explains. "We had identified a number of loans within our portfolio that would qualify for a streamlined solution. MHA basically fit into what we were already doing, but expanded it a bit more.

"Through our National Home Retention Program (NHRP), we had identified about 400,000 qualifying homeowners, representing $8.4 billion in payment reduction. MHA of course builds upon that." BOA has now upped its goal, with plans to modify approximately 630,000 loans over a three-year period. Thus far, they've successfully modified more than 410,000 home loans nationwide: 230,000 in 2008 and approximately 180,000 through May of 2009. "Between MHA and NHRP, we think we're doing more than any other lender in the industry to try to make homes more affordable, and keep home retention a possibility for our customers."

A key part of getting these modifications performed is reaching out to customers—and having the staffing to meet the volume of calls for help. BOA's home retention division has grown to more than double from one year ago—close to 7,500 associates. They are responding to about 80,000 calls a day.

BOA has also been expanding the number of associates who are available to attend borrower outreach events.

Will they be attending the workshops in Everett, Tacoma, and Seattle? "We'll try our best," Tiarzha says. Face-to-face interactions with their customers in outreach events, she explains, are worth the extra effort: "They help us meet with customers who we might not otherwise meet over the phone. And there's that qualitative aspect of having that discussion face to face. We're able to get additional information that might help in finding a solution that's right for them. And it gives us the opportunity to educate the homeowner on the entire process. I hear over and over again just how invaluable it has been for homeowners to participate."

King and Snohomish Counties—and statewide

Special needs populations pose unique challenges

MARC COTE Homeownership Director, WHC **MARNIE CLAYWELL** Homeownership Housing Counselor, WHC

As homeownership counselors, Marc Cote and Marnie Claywell serve a unique need. They have special expertise in working with people with disabilities, and get a lot of referrals for that population, working directly with clients in King and Snohomish Counties. They have held the titles of Homeownership Director and Homeownership Housing Counselor, respectively, for the statewide-focused Washington Homeownership Center (WHC) since March. Before that, they held similar roles with Parkview Services, a King County-based agency that supports people with developmental disabilities. Since March, Parkview Services has held the contract to run WHC.

Marc and Marnie field calls for help on foreclosures from all over the state. When they can, they refer homeowners to their local agencies. "We ask people to call us back if they haven't connected to someone in about 48 hours. If they call us back we'll find them a counselor," Marnie says.

Counseling people with disabilities can be time-consuming—and pose unique complications, Marc explains. For those with developmental disabilities, "we'll meet six or eight times with the client, each time for 45 minutes at least. We've had some successes, getting some good workouts for them—but it takes a lot of time." Now they're transitioning to working with people with a wider range of disabilities, and a new set of problems has emerged: the need for translation services. "Interpretation wasn't a big part of our program, but now that's being required more and more."

He gives the example of a current case: Both clients are deaf and blind. "Communication is difficult, and we can't afford the interpretation services we need. We haven't been able to meet with them for two weeks." Marc has asked the servicing bank to fund the interpreting service. "I have the family's financials and they look okay financially. They're working—and making $60,000 a year. This should be an easy workout."

Like Shawna, Marc and Marnie aren't overwhelmed by their foreclosure counseling caseloads. They're getting about 20 calls a month. They continue to be contacted by people with shoddy loans: "It's not as bad as it was, but they're still out there—especially high interest rates, even if it's a fixed and not an adjustable rate," says Marnie.

Through their role making referrals to other counseling agencies, Marc and Marnie have seen how tough the funding environment has been for many. Although as a state, we've been fortunate in being the beneficiary of both state and federal funding sources for foreclosure counseling [see sidebar], the fact remains that counseling agencies aren't reimbursed for the counseling performed *until a case is resolved*. For many nonprofits on a tight budget, that long wait translates into the inability to hire and keep a counselor on the payroll. "We're grateful for the funding that exists," Marc says. "And there's more than there was two years ago. But it's a challenge to keep doing this. A lot of agencies have called WHC to say: 'Don't refer people to us. We don't have the funding.'"

Both counselors have seen good outcomes result from President Obama's Making Home Affordable program [see sidebar], but for people who have lost their jobs, the foreclosure outcome remains grim. "Homeowners have to find a job—the loan servicer is not going to perform a loan modification without income," Marnie says. "I've had quite a few clients recently who had a blip in income, and now they're back working. That's a good scenario. It gives the servicer something to work with."

Foreclosures on homes in Washington State

Four foreclosure counselors shared their perspectives in the April 2008 issue on the housing crisis. I've asked them to bring us up to date on what's happening in their communities:

The Tri-Cities

Federal stimulus dollars mean more jobs—and fewer foreclosures

LIZA BEAM

Good news is coming out of south-central Washington. I caught up with Liza Beam, Home Ownership Director with Consumer Credit Counseling Service of the Tri-Cities (CCCS). "Our economy is still pretty strong here. Money is coming out to Hanford and creating jobs," she says. Our Washington senators were instrumental in securing close to $2 billion in federal stimulus funding for the Hanford nuclear reservation cleanup. One estimate translates that money into 3,000 jobs.

For the past 15 months, Liza has been working on about 10 foreclosure cases per month. "It's a little busier than it was before the housing problems started a couple of years ago. But definitely not to the point of being overwhelming," she explains. She's seeing the primary cause of delinquencies as "about half and half—primarily, it's either bad loans or layoffs. There are still a pretty significant number of sub-primes, mostly with our Hispanic clients who've had to deal with a language barrier. Some people have lost jobs and haven't gotten work yet. There's a little overlap between the two."

Liza brings up one activity where she's seen several clients fleeced: out-of-state for-profit companies that charge homeowners to "clean up their credit," or "prevent foreclosure." Many of these "loan modification" firms are based in California, and it's illegal for them to do business in Washington State without a license. "One of my clients paid $1,300 and got nothing in return—except angering the mortgage company, who told me, 'I've already been contacted,'" she notes. "Some of them might be helping others, but they're charging a lot of money, while we make it available for free."

Bremerton—and statewide

Making Home Affordable is working

MARVELLE LAHMEYER

In the past year, Marvelle Lahmeyer moved to a different Bremerton-based nonprofit, but she performs the same role. As Lead Housing Counselor at American Financial Solutions, she counsels individuals all along the housing spectrum, from pre-purchase to foreclosure. The real change from 15 months ago, as she sees it, is that the huge ship of foreclosures is finally beginning to turn.

"Before, we were seeing a lot of foreclosures and people were just walking away," Marvelle says. "Now we're seeing lenders working in conjunction with us. Obama's plan is working. We've been getting some phenomenal deals for people. If you have a job—the lenders don't want to foreclose on these properties. We can get homeowners from an 8% loan down to 2% for five years. That gives them time to take a breath—and then the rate starts going back up slowly—but not to more than 4.5% or 5%. They're locking in at 5% for 30 years, with monthly payments dropping from $2,000 to $1,300."

The calls for foreclosure help "come in waves. Some days we might get 30 calls. Other days, a half a dozen." Marvelle and her fellow counselors are seeing a lot of people with loss-of-income and recession-oriented challenges, "but not a whole lot of them have good, 30-year 6% loans. We're still seeing more of the ARMs, the higher interest rates, the 80/20 loans." American Financial offers free housing, credit, and bankruptcy counseling statewide, and has two HUD-certified housing counselors on staff and one in training, along with 20 credit counselors.

"Homeowners ask me all the time: 'Is this going to work for us?'" Marvelle recounts. "And I tell them, 'we're not miracle workers, but if we work the program like it's intended to work, yes, you will be successful.' We educate them. We make them work the program with us. We don't just do it for them. They are making their calls to the servicer weekly. And they're letting us know what their status update is."

Foreclosures on homes in Washington State

Spokane

The economic downturn is real

RAY RIECKERS

Ray Rieckers comes well prepared with his area's foreclosure numbers. He poses the question, "How can we tell what's really going on unless we have the data?" Here are the Spokane County numbers he secured from the County Auditor's office:

- Number of foreclosures in all of 2007: 304
- January 1 through June 18, 2008: 732 notices of foreclosure, 237 foreclosures
- January 1 through June 18, 2009: 1,266 notices of foreclosure, 342 foreclosures

Note that the last two time periods given are less than six months—vs. all of 2007.

The figures below are what Ray has seen from his vantage point as Director, Housing Opportunities Division at Spokane Neighborhood Action Programs (SNAP). The six-month numbers below are not just phone calls; counselors are opening files and working with clients:

- 10/1/07 – 3/31/08: 216 new foreclosure cases, or approx. 36/month
- 4/1/08 – 9/30/08: 298 new foreclosure cases, or approx. 50/month
- 10/1/08 – 3/31/09: 511 new foreclosure cases, or approx. 85/month

"The economic downturn is certainly real," Ray points out. "People in our community are losing their jobs, and unemployment benefits are often not sufficient to help them maintain their mortgage. We're working with them to help them buy time, get loans rewritten to fit their new income. They're out beating the pavement to seek a new job."

Ray has seen a definite shift from subprime mortgages to the recession as the major driver of current foreclosures in Spokane. "The first wave was the result of the industry's aggression. At this point, it's much broader in terms of who's coming to see us," Ray says. "Folks who have been making payments, have lost income, and are trying to figure out how to maintain their house payment. But we're still seeing people with toxic mortgages that were non-conforming to begin with."

Ray and his four-counselor staff are working hard, but they're keeping up. One reason is because they were able to add a new counselor in February. "We saw this coming," he explains. "We can't bill until we see clients, and we can't see clients until we have the counselors. We saw that as a problem." Ray and SNAP applied for and secured a grant from the Inland Northwest Community Foundation. "They gave us $20,000 to hire a counselor—which has made a huge difference. It's our intent to advertise and bring in one more soon with American Reinvestment and Recovery Act funding through Health and Human Services.

"I'm very appreciative of our public officials for providing resources for counseling. As well as the federal and state agencies for being so quick in getting these resources out where they can do some good," Ray concludes.

Seattle

Coaching homeowners through the foreclosure process

LINDA TAYLOR

Linda Taylor, Housing Director at Urban League of Metropolitan Seattle (ULMS), has seen the calls for foreclosure counseling coming into her agency climb significantly in the past year. "We see a steady flow of people in trouble," she says. ULMS has begun offering group foreclosure counseling sessions to keep up with demand—and to help ensure that the five HUD-certified counselors on staff are able to avoid burnout.

These sessions are generally offered three times a month. This month, however, ULMS is helping to sponsor foreclosure workshops over a three-county area instead. More on that in a minute. The turnout for ULMS group counseling sessions generally runs between five and 35 households. "We give homeowners enough information so that they can do this process themselves—there's nothing about it that you can't do yourself."

Linda continues to be an impassioned advocate for financial literacy. Her counseling strategy derives from her philosophy that people need to become financially literate; a counselor should function more like a coach than an executor. "Our goal is to teach you how to do your budget, to teach you how to move forward, how not to be afraid to talk to the servicer, what to expect, what your rights are, and the right questions to ask," Linda says. "We want to make sure you know enough to do it yourself, to give you enough to arm yourself with—and not go back there again."

ULMS is a major organizer of the three countywide Foreclosure Prevention Workshops I mentioned above, which will be held in Snohomish, King, and Pierce Counties in late July. The point of these workshops, which are also sponsored by DFI, FRBSF, and other government agencies and nonprofits, is to bring homeowners who need help together with counselors, lenders, and loan servicers. Borrowers facing foreclosure will have the opportunity to get answers—and if their lending institution sends a representative, perhaps even be able to resolve their loan issues on the spot. Please follow the links below for more information; you can register by calling ULMS at 1-800-368-1455:

- Thursday, July 23
  Everett (Cascade High School)
- Friday, July 24
  Seattle (Cleveland High School)
- Saturday, July 25
  Tacoma (Evergreen College Tacoma Campus)

Linda is enlisting housing counselors from various agencies in each of the three counties and urging lenders to show up. "We're getting the word out every way we can," she says.

The Federal Reserve Bank of San Francisco's Community Affairs

Helping economically distressed communities

Craig Nolte is a very busy man. As Community Affairs Advisor with the Seattle branch of the Federal Reserve Bank of San Francisco (FRBSF), he works across a five-state territory with a mandate to seek out systemic problems in our regional economy, determine whether there's a useful role the Federal Reserve can play—and then make sure that role is executed. He and FRBSF have been heavily involved in what Craig calls "borrower outreach events"—including the three foreclosure workshops in Everett, Seattle, and Tacoma mentioned above.

People generally think of the Fed as a maker of macro monetary policy. Craig is charged with looking at the big economic picture across this region, but he also focuses on communities that are particularly distressed. Take a look at his travel schedule for Washington, Oregon, Idaho, Alaska, Hawaii—not to mention Guam—and you'll get an idea of how committed he is to this work. He sees his role as a convener—building up working teams, sponsoring events, and gathering people together to educate, train, solve problems, and remove stumbling blocks.

CRAIG NOLTE Community Affairs Advisor, Seattle branch of Federal Reserve Bank of San Francisco

Two years ago: Spreading the word about the Northwest's "hidden problem"

About two years ago, Craig saw the writing on the wall for foreclosures. He began bringing groups together to present information—and offer cautionary warnings. "That was in the early stages," he explains. "We knew things were getting pretty bad in other parts of the country, but the housing crisis hadn't happened here yet. My struggle was convincing people that the Northwest economy typically lags the rest of the country, and that it could still hit us. One out of three mortgages was a high interest-rate loan or a subprime, and we had all the characteristics to suffer more—it's just that our economy was then still so strong. People were still able to sell homes and come out pretty close to even. It was basically a hidden problem."

As the housing market grew worse, Craig reports, people began to see more relevance in his economic presentations. He proposed a number of ways to help stem foreclosures, including making information available on the

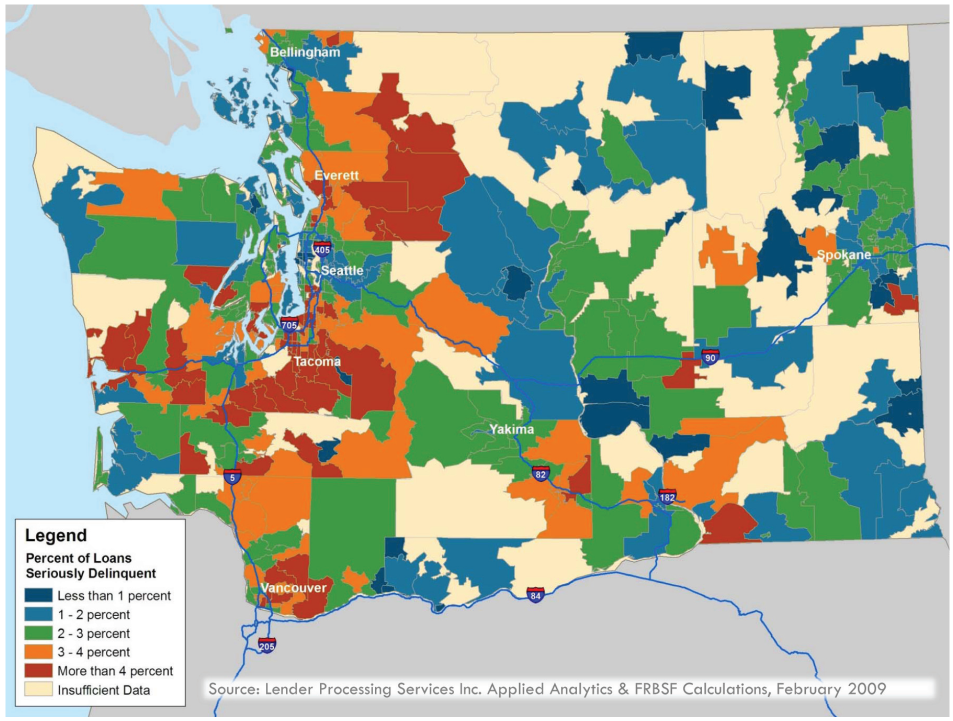
Foreclosures on homes in Washington State

Internet, and awareness campaigns to help homeowners in trouble know what options they had.

Craig knew that in other regions of the U.S., borrower outreach events had been successful. So he talked them up in his presentations—and a few organizations gave them a try on a smaller scale. "They found that they were so popular, they needed something bigger," Craig says. That's when he began to stage large, many-lender events through the sponsorship of FRBSF. "I teamed up with the City of Tacoma to hold one on March 14 to provide counseling and access to servicers; about 200 people showed up." More than 600 people attended a similar event, held in Portland in early May that reached out to residents of Vancouver and Clark County as well: "We had 375 households go through the counseling process." In mid-May, 150 people attended the outreach event he convened in Napa, Idaho.

Craig works to bring in as many of the national loan servicers as he can to these events. "These are names you've never heard of. Part of the challenge is that no one knew this was going to happen. None of these servicers had planned to staff up a loss mitigation department; many of them are still bulking up—and our events are competing with harder-hit areas like Las Vegas, Phoenix, and Detroit. Even if a servicer has a significant volume of loans in a community, the events are dependent on which borrowers show up. We encourage lenders to send letters to all their clients to encourage them to come."

The degree of resolution for borrowers also depends on whom the lender sends. "Our first preference is loss mitigation staff. They can make some pretty good decisions."



Areas at risk of additional foreclosures. February 2009

Here in Washington State, Craig explains, "Some markets are just starting to feel the pain." He's planning to hold workshops across the state later this year to help educate and give ideas about options to borrowers. One important objective is to educate the public about first-time homebuyer programs, working proactively with communities to help build a healthier housing market.

The growing challenge of REO properties

Another aspect of Craig's current work is tackling the growing challenge of REO properties. He is working alongside others to plan instructional meetings and trainings with the REO staff at banks. The last time our country saw an REO property burden of similar proportions was back in the early 1980s: "If you're in the REO department of a bank, you've probably never seen conditions like this before. And the sooner we can get past this, the sooner we can find the bottom." A few weeks ago, Craig held a Community Reinvestment Act roundtable for lenders on the topic of the Neighborhood Stabilization Act (NSP). He brought in people from HUD, CTED, and the City of Tacoma to talk about the program and how it works—and encourage lenders to notify them of properties that may be available.

Foreclosures on homes in Washington State

One of the challenges posed by the NSP, Craig explains, is that "many cities don't have experience in buying and rehabbing and re-selling homes—so there are other training opportunities that we can provide."

Craig's systemic problems mandate has frequently brought him to Native American territories, where tribal members typically haven't had ready access to mortgages. He's held workshops "to educate tribes on the types of foreclosure and eviction ordinances that they could adopt that would provide more comfort for financial institutions to make loans on tribal land—and also information on government-guaranteed programs that work well on Native American reservations."

I ask Craig one last question: When will the foreclosure crisis start turning around in Washington State? "I'm not allowed to speculate," he says. That edict comes all the way from the top—from Fed Chairman Ben Bernanke. But, he points out, if you look at FRBSF's chart on delinquencies nearby, "It's easy to draw the conclusion that we're not at the bottom yet."

Washington State Attorney General's Office

Consumer protection efforts on many fronts

In terms of the predatory loan abuses that have taken place in the marketplace, "the housing crisis has cleaned up a lot of things," says David Huey. "The funds for these loans are drying up. Unfortunately, the funds for good lending have been drying up, too." David is Assistant Attorney General for Consumer Protection with the Washington State Attorney General's Office. One of his major areas of specialization is financial services; predatory lending cases have a way of winding up on his desk. Since he joined our state AG's office eight years ago, he's been involved in several major national settlements with lenders.

David's office is still seeing the repercussions of the abusive loans made in previous years; for example, option ARMs with a three-year introductory rate made in 2006. "A lot of loans were back-end loaded, ticking time bombs that have yet to explode. We're part of a national task force to encourage loan servicers to make loan modifications for people. That's been a very difficult program. We've met with most of the large national servicing companies. Some have better records than others. But we're hearing a lot of complaints."

The Attorney General's Office works on many fronts, David explains. "We talk to the companies on the global level, but will also try to assist consumers where the problem is a breakdown of communication. We can't represent individual consumers. But

DAVID HUEY Assistant Attorney General for Consumer Protection with the Washington State Attorney General's Office

sometimes if they're not getting phone calls returned, a call or email from the AG's office might prompt servicers to return that call. We're also participating in several national task forces with the federal government and federal agencies to address this problem."

Crafting a Countrywide settlement

David has been involved in the settlement that state Attorneys General have reached with Countrywide; he's on the executive committee that is administering that nationwide. Countrywide, a leading national sub-prime lender, was acquired by Bank of America (BOA) in July 2008. "At the time BOA acquired Countrywide, you had the issue of what consequences Countrywide might

Foreclosures on homes in Washington State

suffer as a result of its previous conduct, practices we would allege were violations of the law," David says.

"To its credit, BOA came to us to ask us to craft a settlement, which would then be offered to the rest of the states." BOA tapped the same group of five states, including Washington, that had teamed up on two previous major predatory lending settlements against Household and Beneficial Finance, and Ameriquest.

There are two facets to the BOA/Countrywide settlement. One concerns injunctive relief, a program that's already up and running. "This is a substantial program of loan modifications based on the affordability measure that now characterizes most of the modification programs—including Making Home Affordable. It targets getting payments down in the range of 31 or 32% of PITI: principle, interest, taxes, and insurance," David explains. "It does that primarily by reducing the interest rate." Cases are addressed somewhat differently depending on the type of loan. Through the end of 1Q 2009 1,220 Washington borrowers had received loan modifications through the program; the expected principle and interest savings for these homeowners totaled more than $20 million.

Part two is a pair of cash funds created through the BOA/Countrywide settlement. One is a relocation assistance fund. $70 million nationwide was pledged to a cash-for-keys-type program. For those Countrywide borrowers who will lose their home to foreclosure, this provides a cash payment to help them transition to a new home. As of March 31, the program had disbursed $246,472 to Washington borrowers. The second cash fund of $160 million, of which $1.8 million is allocated to Washington State, is more of a cash-payment-for-damages fund. Former borrowers who have lost their homes will receive a share of this—provided they sign a release. Some of that funding will go to broader purposes such as providing credit counseling.

David stresses that there is no one bad actor when it comes to the complaints his office is receiving. "The whole industry is dealing with the crisis, and straining under that load. Part of that is the way the business model was established, with the loan servicer separate from the note holder or the person who owns the mortgage. That phenomenon expanded with sub-prime lending."

David and the state AG's office are involved in the new pro bono program, the Home Foreclosure Legal Aid Project, offered by the Washington State Bar Association. This program, launched last month, will provide free legal assistance to low-income Washington State residents in danger of losing their homes. David has been helping train volunteer lawyers in foreclosure prevention and loan modifications; the AG's Office has contributed funds towards these specialized trainings. "We're happy to see this pro bono effort," David says. "From our perspective, there's a great need for a program like this."

"The whole industry is dealing with the crisis, and straining under that load. Part of that is the way the business model was established, with the loan servicer separate from the note holder or the person who owns the mortgage. That phenomenon expanded with sub-prime lending."

Washington State Department of Financial Institutions (DFI)

Financial literacy efforts are cradle to grave

Lyn Peters is director of communications at DFI; she's also DFI's designated financial education and outreach orchestrator. She brings great energy and focus to her role, and is a firm believer in the role financial literacy can play in ensuring that our country doesn't see a housing crisis of this proportion again.

Lyn served on the state's Financial Literacy Task Force that met for seven months in 2008. They produced a final report and a number of recommendations to the state legislature late last December for the 2009 session; unfortunately, in a tough budget year, none of these gained traction.

"We just haven't seen an effort that incorporates everyone—cradle to grave," Lyn says. "So we are hoping to start developing that here at DFI, just getting that network going." The Financial Literacy Public Private Partnership (FLPPP) Committee has been doing important work with school-aged kids in our state, Lyn points out. "The best-case scenario is to start in the schools. But you don't have to give up after that. We will probably start out with quarterly webinars: Who's doing what, where DFI can jump in—connecting the dots. There are so many people and groups doing financial education, but nobody knows about each other."

She has spoken to dozens of groups across the state. "You name it and we're there—schools, teachers' and workers' associations, a credit union, federal, city and state employees, seniors' groups...." A key message when Lyn gives a presentation is: "Families have got to get over this idea that it's not proper to talk about money."

In terms of financial literacy concerning homeownership, "there's still a strong lack of reality," Lyn says. "That's why homebuyer education classes are so important. Homebuyer classes are filling up—and that's good news." For those homeowners already in trouble, Lyn is seeing more awareness. "The housing crisis has such a high profile. People generally do know to start early in asking for help. More people are actually making the calls to their lender vs. being afraid to make that call."

Recent publicity, along with last year's slate of state legislation to help prevent foreclosure scams, "took a huge number of bad actors out of the system," she says, "but our shop is as busy as ever with enforcement, investigation, and regulation."

Lyn is excited about the part she's playing with DFI in bringing more attention to financial literacy—and bringing people together. "It's a growing effort. I'm just trying to keep up with it. The more people I meet, the more partnerships I strike up, the bigger the network. It's just a matter of making the connections."

LYN PETERS Director of Communications, Washington State Department of Financial Institutions

Two last words: Education—and Affordability

As all those who have graciously offered their time and perspectives for this issue will tell you, one of the very best defenses against foreclosure is *homebuyer education*. The difference is startling: People who go through the process of homebuyer education are much less likely to cross that agonizing threshold of losing their homes to foreclosure. Though we can't predict future economic downturns—or personal tragedies—a fully informed homebuyer knows what his or her options are, and where to get help.

One statistic that was recently published in NeighborWorks' *June 2009 Report to Congress* on the National Foreclosure Mitigation Counseling Program (NFMC) should give all of us pause. Washington State was first among U.S. states in the number of NFMC Program participants who reported paying *more than 75% of their income to PITI*. Put more simply: 41% of the 3,000-plus Washington State households receiving counseling through March 2009 were paying more than three-quarters of household income towards mortgage payments.

Obviously, the statistic above is a rough snapshot, but it's deeply troubling. There are many contributing factors to excessively high debt-to-income ratios, including housing prices, and the disparities in growth between housing prices and wages. As a state, we have been working assiduously, particularly in the last few decades, to increase affordable housing opportunities for people. For many families, we still have a long way to go.

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For more information about the Commission and its work, visit **www.wshfc.org**

WASHINGTON STATE
HOUSING FINANCE
COMMISSION

Opening doors to a better life

A unique, "inside" perspective on housing and community development from the executive director of the Washington State Housing Finance Commission.

Inside this Issue

Washington State's Foreclosure Fairness Act: A second try at a fair, clearly defined and enforceable process for homeowners facing foreclosure

Governor Gregoire signed the Foreclosure Fairness Act (FFA)—Second Substitute House Bill 1362—into law on April 14th, 2011. Getting this Act into a final form that all parties could agree on required many meetings, hard negotiations, significant compromise and line-by-line lawmaking. Many people participated in the process including legislators, affordable housing advocates, financial institutions, homeowners, attorneys, housing counselors, and state officials.

For this issue of *My View*, I've spoken with many of the people who were integral to the passage of this legislation. They'll share their perspectives on what they were looking to achieve, and what they think the impact of the FFA will be. Now, we all have a huge task ahead of us: getting the word out about the new provisions of the Act that take effect on July 22. Hopefully, working together, homeowners in crisis and their lenders will have more time and more opportunities to avoid foreclosure and achieve a fair resolution in a timely manner.

REPRESENTATIVE TINA ORWALL
33rd District, Des Moines

"It [the FFA] creates a very fair, transparent process. That's important for homeowners. I believe we've improved the system for foreclosures in our state."

The new Foreclosure Fairness Act (FFA) is far-reaching and well worth the effort it took to move it through the legislature. In a major contribution to increase funding, the banks voluntarily came forward to provide a source of money to pay for the certified housing counseling that all agree is integral to solving the current foreclosure morass. And, after working through several versions, we now have a law on the books that provides more time for homeowners facing default or foreclosure to meet and confer with their lender and, if necessary, participate in mediation to get a timely and even-handed hearing. The FFA also has "teeth": It provides for clear-cut expectations and timelines, along with penalties and other consequences for those who don't comply with the law. The chart on the following page spells out many of the key provisions.

Rep. Tina Orwall, the prime sponsor of this legislation in the House, describes it this way: "It creates a very fair, transparent process. That's important for homeowners. I believe we've improved the system for foreclosures in our state. We looked at best practices, and what people in other states were doing, and we learned from those—yet we built on what was already working to enhance the system we have."

Timeline for Washington State's Foreclosure Mediation Program

STEP 1

- Lender must notify Homeowner by letter and telephone of the right to a 60-day opportunity to an in-person meeting before Lender records a Notice of Default.
- The Notice must also indicate the Homeowner's right to request mediation through a housing counselor or an attorney. Mediation may be requested up until the Notice of Trustee Sale is issued.

STEP 2

- Mediation is requested ONLY by a housing counselor or attorney sending in a request for mediation to the Department of Commerce. The Homeowner does not have to establish or prove reasons for the request.

STEP 3

- Within 10 days of receiving the request for mediation, the Department will notify all parties that mediation has been requested and select a mediator.
- The Department will notify the parties of the list of documents that must be provided for the mediation.

STEP 4

- The mediation will be scheduled no later than 45 days after the mediator is selected, unless otherwise agreed;
- The mediator will set a time, date and place for the mediation 15 days before the mediation session;
- The Homeowner may be represented by an attorney or other advocate such as a housing counselor;
- The Lender must have a person with authority to modify the loan or negotiate an agreement either at the mediation or available by telephone.

STEP 5

At least 10 days prior to mediation session:

- Homeowner shall prepare and exchange with the Lender: a financial statement with current and future income information, debts and obligations, and last 2 years of tax returns.
- Lender shall prepare and exchange with the Homeowner: loan balance, an itemized list of fees and charges, payment history, net present value and loan modification inputs, and other required documents.

STEP 6

- At the mediation, both the Homeowner and the Lender have an obligation to participate in good faith.
- The mediator will encourage the parties to examine all issues, including loan modification to avoid foreclosure.
- Within 7 days after mediation, the mediator shall make a written certification of the results of the mediation and whether the parties participated in good faith.

STEP 7

- The parties either come to an agreement (a loan modification or other alternative) or the parties do not come to an agreement and the foreclosure process will proceed.
- If the Lender does not mediate in good faith, the Homeowner may enjoin the foreclosure sale in court.

Prepared by Bruce Neas of Columbia Legal Services. This document was made possible by a grant from the Institute for Foreclosure Legal Assistance.

Discovering what we need

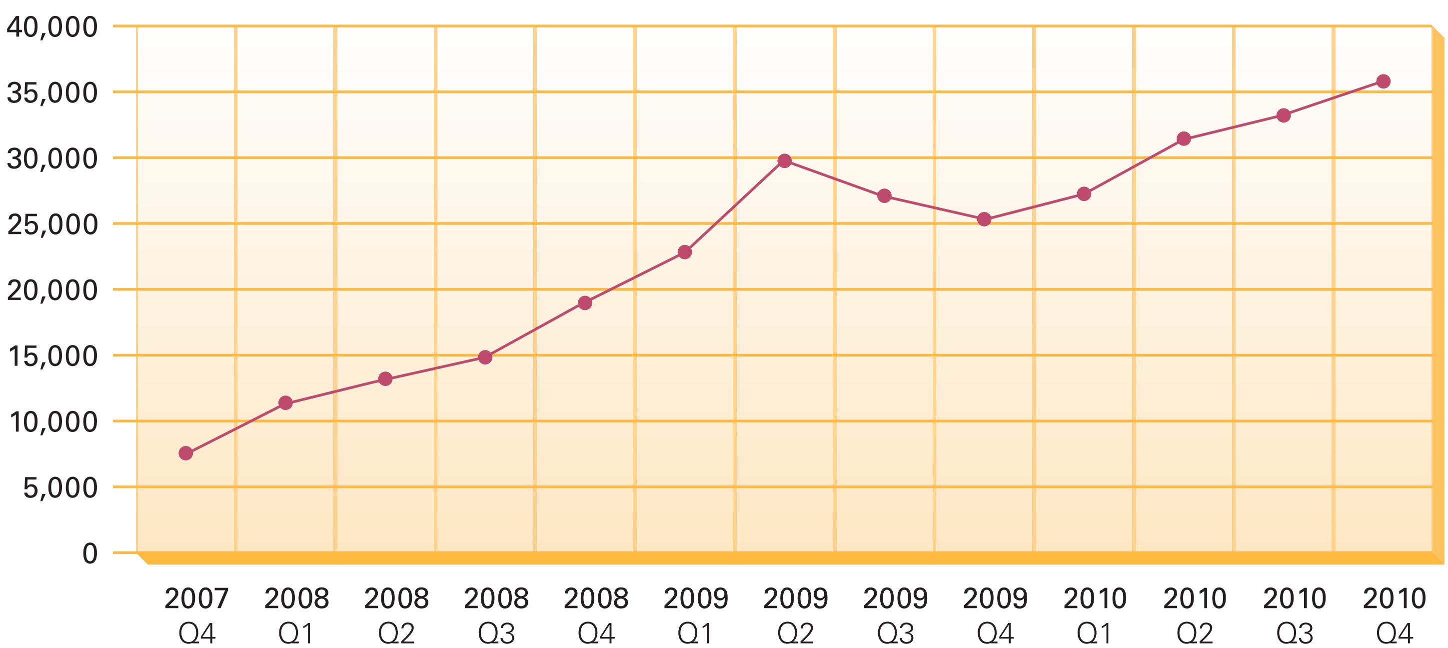
About 32,000 foreclosures were filed in Washington State last year; somewhere between 30,000 and 50,000 are anticipated to occur in 2011. Since the foreclosure crisis began, our state's leaders have attempted to create laws and put policies in place to protect homeowners, and to establish procedures for foreclosures on deeds of trust that are effective and fair to all parties involved. In two previous issues of *My View*, April 2008 and July 2009, I explored emerging foreclosure challenges and the responses that were taking shape in the legislature and in communities across the state.

The FFA is the result of both experience and research. By the start of the 2011, all of us in the affordable housing community knew well what *wasn't* working in terms of getting timely responses from banks—particularly the large, national banks—to the people who were in default and were making efforts to find a solution.

ESB 5810, passed in 2009, was an attempt to solve the problem. It set out guidelines for what is known as *meet and confer*. In essence, lenders were charged by ESB 5810 with following very clear guidelines in their dealings with borrowers in default. Among other things, they had been required: to contact the borrower both by phone and mail a set number of times; to advise borrowers that they had the right to request a meeting to discuss possible alternatives to foreclosure; and to schedule this meeting within 14 days. Lenders were also required to provide delinquent borrowers with contact information for a HUD-certified counseling agency.

As virtually everyone now agrees, meet and confer almost never took place. And these guidelines were almost never followed—at least by the large national banks. No penalties for failure to comply

Loans in Foreclosure in Washington



were explicitly attached, and there was no oversight provided. By the 2010 session, ESB 5810's shortcomings were common knowledge among housing counselors and advocates. But the lack of follow-through by many lenders had not been documented.

During the 2010 session, several bills were introduced to amend the provisions of ESB 5810—but the Legislature wanted more information in order to respond effectively. They mandated the Commission to review the effectiveness of this Bill's notice and meet and confer requirements before proceeding further. We at the Commission conducted a survey of stakeholders, including lenders, lobbyists, housing counselors, attorneys, the Department of Financial Institutions (DFI) and others, to determine whether the requirements of ESB 5810 were being followed, along with what the outcomes were when borrowers in trouble actually did work with a housing counselor.

Last November, we published "Report of the Effectiveness of RCW 61.24.031," which encompassed both the results of our survey as well as recommendations from all survey participants to the Legislature based on those results. A copy of the Report can be accessed at http://www.wshfc.org/admin/ReportEffectivenessRCW61.24.031.pdf.

(Page 4 Graph) Source: Mortgage Bankers Association, end of quarter. This graph does not include foreclosures that have been completed. It is the inventory of homes that are still active in the foreclosure process at the end of each quarter.

Among the most powerful findings:

- Lenders were generally providing the required toll-free numbers to assist delinquent borrowers to find counselors to avoid foreclosure (the counselor notice requirement). Those borrowers who got the toll-free numbers and contacted housing counselors fared better that those who did not.
- A significant number of lenders were *not* telling delinquent borrowers that they had the right to a subsequent meeting with the lender's representative within 14 days to discuss their options to avoid foreclosure (the 14-day meeting notice). More often than not, the lender representatives indicated that *they were not aware of their responsibility to inform borrowers they had the right to this subsequent meeting within 14 days* or they were unaware that the meeting notice requirement existed.
- In addition, there was no recourse available to borrowers if the meet and confer requirements were not implemented in good faith or if borrowers were subjected to abusive practices.

Clearly, more effective legislative remedies were desperately needed.

"Mediation will hopefully stabilize communities, it will stabilize the homeowner, it will stabilize the lender and the investors—if it gets used as much as we hope it does and as successfully."

—BRUCE NEAS, COLUMBIA LEGAL SERVICES

Forcing a conversation

BRUCE NEAS
Legislative Coordinator and Legal Services Attorney, Columbia Legal Services

Bruce, the chief drafter of the Foreclosure Fairness Act, participated in a Commission-sponsored training for housing counselors on the impact of the Act's new provisions. The training was held soon after the FFA was passed.

The idea behind *meet and confer* is simple: getting all the parties involved in a conflict to engage in a conversation is crucial to resolution. This has been a major stumbling block for homeowners in default. So many of them, whether working directly with a loan servicer or through a housing counselor or attorney, have been frustrated in their efforts to be heard. This has been the predominant experience of Washington State homeowners. From the November Report:

> [Housing] counselors have consistently told us … they have had serious problems getting timely meetings or telephone conversations scheduled with lenders or their representatives. In fact, the greatest frustration voiced by counselors to us during our review was their frustration at not being able to reliably or consistently communicate with a lender representative to adequately discuss the situation of their client.

"The real point of the FFA is to force a conversation," says Bruce Neas. Bruce is Legislative Coordinator and Legal Services Attorney for nonprofit Columbia Legal Services and was the chief drafter of the FFA. Bruce believes that there are three key elements in the new Act that are "a significant step in the right direction": Strengthening the *meet and confer* expectations; providing a *source of funding* for housing counselors; and creating the mechanism for a *mediation process*.

Let's look at these three important new requirements one at a time:

Meet and confer

The FFA "makes the meet and confer process a little more meaningful," Bruce says. "Homeowners must understand that they can, if they act within 30 days, get an automatic 60-day workout period with their lender to see whether the foreclosure can be avoided. This is a pre-foreclosure opportunity." As with so many of those who supported passage of the FFA, Bruce is hopeful that banks will be willing to come to the table earlier in the default process so they can avoid the legwork and additional expenses posed by the mediation process.

Source of funding for housing counseling

For every owner-occupied residential home for which a default notice has been issued, banks are required to contribute $250 to the Foreclosure Fairness Account overseen by the Department of Commerce. This applies only to banks that have issued at least 250 notices of default in the previous year (e.g., the large, national banks). At least 80% of these monies must be used to fund housing counseling for borrowers. Says Bruce, "This will help to take care of one of the big debacles in this crisis—the lack of housing counselors. It has been just amazing to me that we have had between 30 and 40 housing counselors a year, since this whole crisis started, in the entire state. You could have ten times this number and still not have enough."

Mediation

Mediation is the new tool now available to homeowners that can be triggered by their housing counselor or attorney. The mediation session, overseen by a neutral, third-party mediator, forces all parties to come to the table to make a good-faith determination on whether a foreclosure can be avoided.

"In looking at the research," Bruce says, "mediation programs, which are relatively new, have proven in some states and some jurisdictions to be very useful—very significant—in avoiding foreclosures." In a non-judicial state like Washington, where you're not required to go to court to foreclose on a property, he explains, "it was the perfect solution: Requiring a third party to actually meet with the parties involved."

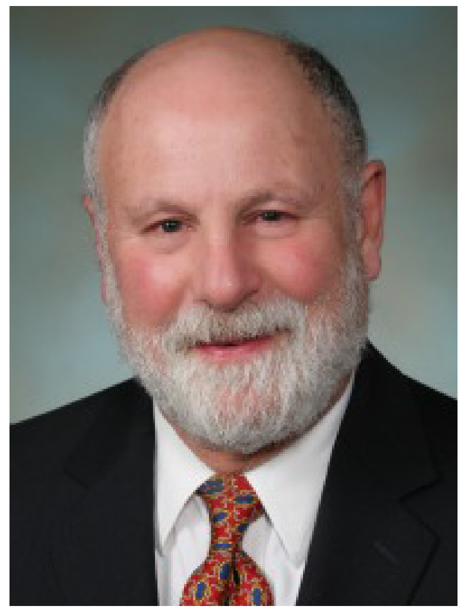
The mediator's role is to determine whether all parties acted in good faith. "And that's defined very stringently by the statute," he says. "It's about bringing the right documents, coming to the meeting, bringing someone with authority—all objective facts. So a mediator can say: 'This happened or didn't happen.'"

For Bruce, the essence of the mediation conversation should be: "Lender, if you're not going to do any better at a foreclosure sale than you would doing a loan modification with this homeowner, you should be encouraged to do the loan modification. Especially in the current situation where so many homes are underwater. You should be looking at principal reductions, looking at extending the loan, looking at the borrower's situation to see if they can recover enough. The point is to have a conversation with people who can make a decision about what's really fair in each situation."

As envisioned by Bruce and other crafters of this legislation, mediation "will hopefully stabilize communities, it will stabilize the homeowner, it will stabilize the lender and the investors—if it gets used as much as we hope it does and as successfully."

Adds Senator Adam Kline, the FFA's chief champion in the Senate in Olympia and a long-time advocate for fair foreclosure practices, "The FFA helps level the playing field between individual homeowners, mortgage borrowers and the banks or mortgage companies that lent the money. Given the endemic foreclosures that we're going through, it helps to have some power put back in the hands of ordinary people against the banks and the big mortgage companies.

"This gives banks something to think about before they file for foreclosure in the first place. They may want to look seriously at the likelihood of giving a modification to the homeowner before they foreclose, rather than going through this process."



SENATOR ADAM KLINE
37th District, Seattle

Bringing certainty to the process

In the numerous stories told by distressed homeowners testifying to their legislators this past session, one of the defining themes was the uncertainty of the modification process: The frustration of being left hanging, waiting for resolutions—for months, sometimes for much more than a year.

Lili Sotelo is Director of the Home Foreclosure Legal Aid Project, a partnership with the Northwest Justice Project funded primarily through the Legal Services Corporation. Lili represents homeowners in foreclosure-related cases, and oversees the work of attorneys who volunteer to take on pro bono cases for homeowners through the Project. She also worked with Bruce to provide legal input on the language of the FFA. Currently, she reports, more than 500 attorneys in our state have signed up to take on pro bono cases to represent homeowners.

In her own and fellow attorneys' work in representing homeowners, she describes, housing counselors frequently referred homeowners if "the homeowner had come to a brick wall and there was no way around that wall without legal intervention. Sometimes it was because they could not get a straight answer from the servicer in terms of getting a permanent modification, sometimes the servicer would repeatedly lose the paperwork and claim never to have spoken with the homeowner. Although many times there was evidence to the contrary! And when we had attorneys help the homeowner to try to accomplish the same thing, they would experience that same level of frustration and stonewalling—and lack of a coherent or a predictable procedure."

LILI SOTELO
Director, Home Forclosure Legal Aid Project

"People... would like to know what to do with the rest of their lives: Do they move on, do they stay, what's going to happen? It's very difficult emotionally for people to deal with that uncertainty. And the mediation brings certainty to the process."

Lili is hopeful that the FFA will bring to the foreclosure process "Certainty, transparency, and oversight. Previously," she says, "part of the problem was that homeowners and the attorneys who represented them would speak to a different person every time in some unknown place who had access to limited files. And so it was very difficult to get an answer. But the Act requires a good-faith effort at mediation. It requires a lender representative, with authority to make a decision, to be present during the mediation. Whether or not there is a resolution to be reached, everyone's trying to reach it and not playing games.

"And there's a timeframe," Lili adds. "Most people would rather have a six-month period where they know at the end of a mediation what's going to happen—rather than two years of a temporary modification. It's this sense of hope that… people are just holding onto, and they would like to know what to do with the rest of their lives: Do they move on, do they stay, what's going to happen? It's very difficult emotionally for people to deal with that uncertainty. And the mediation brings certainty to the process."

Monitoring the Act to see how it's rolling out

Danielle Friedman, Public Policy Coordinator with the statewide Poverty Action Network, has been coordinating efforts to change our state's foreclosure processes to better serve the needs of low-income borrowers for several years. During the session, she was an assiduous advocate for what she saw as key provisions of the Act—and helped frustrated homeowners get to Olympia to testify and to meet individually with their legislators.

"Homeowners have been having a very hard time getting in touch with lenders, they were getting transferred, getting wrong information, having to send in their paperwork 12 or 15 times," she describes. "People were outraged, but they didn't have the outlets for being heard."

Danielle's work on foreclosure issues originally arose out of Poverty Action's focus on creating broad financial protections for low-income people. Poverty Action is part of a large coalition of close to 100 organizations across the state, the Alliance to Prevent Predatory Lending, that has been battling predatory lending practices. After the 2009 session and the passage of ESB 5810, Alliance members agreed that more stringent legislation was needed to help distressed homeowners, many of whom had been the victims of predatory mortgage lending. "We started looking at what policies were working, and it seemed like foreclosure mediation, with some real teeth in it, would be something that could help homeowners," she says. She and the Alliance rolled up their sleeves and have been working to get attention for this issue ever since.

Danielle's chief concern about the FFA is the triggering mechanism required to initiate the mediation process. Washington State is the only state with mediation that does not permit the homeowner to trigger the mediation process. Only a housing counselor or attorney working with the homeowner can do so. "That was not our original idea," says Danielle. "We hope that people are going to know that it's their right to ask for mediation through their representative. And we plan to monitor how that's going to work.

"We'll be observing how it's rolling out: Staying in touch with people who are in the foreclosure process right now, seeing if they're having trouble accessing the program, what their experience is with it. If there are elements that need to be tweaked, we'll be going back next session and talking to lawmakers about making it stronger or changing things that need to be changed. We'll definitely still be involved throughout the implementation."

Right now Danielle and the Alliance are focused on publicizing the new rights granted to homeowners by the FFA. "It's very important for us to be getting the word out. These are policies that could make a difference in people's lives. And we think the FFA is going to help many homeowners. The key to this is having some accountability on the part of the banks: Having standards that the banks have to live up to."

DANIELLE FRIEDMAN
Public Policy Coordinator, Poverty Action Network

"The key to this is having some accountability on the part of the banks: Having standards that the banks have to live up to."

Enforcing the Act

I've already mentioned how important it was to all of us who worked on the FFA, including the lenders, that the new legislation be backed by clear consequences, should its requisites not be followed. James Sugarman, Assistant Attorney General, reports that the Attorney General's office is currently putting policies and procedures in place to do just that.

In Jim's words, "the Consumer Protection Division enforces the state Consumer Protection Act, which prohibits unfair and deceptive practices in the marketplace. Although our Division has always had the authority to enforce the CPA for acts that occur during foreclosure, the new amendments to this legislation give us more direct authority to enforce the new parts of the Deed of Trust Act.

"For example, it is now a violation of the CPA for a lender to fail to let borrowers know about the opportunity to mediate and for lenders to conduct loan mediation in bad faith, e.g., failing to show up at mediation or to provide the required information about money owed, fees, or why a loan modification was denied. It will also be a violation of the CPA for a lender to fail to report its foreclosures and pay any required mediation fee for each foreclosure. We intend to police foreclosure proceedings to ensure the new requirements are followed."

JAMES SUGARMAN
Assistant Attorney General

The Banks: Housing counseling is a critical part of the solution

Throughout the negotiation process to craft the FFA, Denny Eliason was the lobbyist who represented the interests of the Washington Bankers Association (WBA). The WBA represents both large and small banks—more than 95% of all banks doing business in the state. Denny has worked with the WBA for more than a decade, and brought much good will and willingness to listen and present reasonable responses on the part of the banks. Tina Orwall puts it this way: "Denny was a leader in this. He needed to persuade his industry to make compromises and I certainly applaud his efforts."

As the foreclosure crisis deepened in our state, it became clear that the large, national banks with out-of-state servicers were overwhelmed with the volume of borrowers trying to reach them and work out solutions. "When I introduced the legislation this year," Tina says, "I insisted that we waive the small banks. I did that because when I talked with counselors or met with banks, I kept hearing over and over that the smaller community banks were meeting with people face to face and had a very small percentage of foreclosures. So we really wanted to focus this legislation where we were seeing the most issues."

And that's truly what the FFA accomplishes. It's only the banks that were involved in more than 250 trustee sales of (foreclosures on) owner-occupied residential homes in Washington State in the last calendar year that have to comply with the mediation program. And as I mentioned already, it's these same big banks that are required to pay in $250 per default into the fund for housing counseling.

Denny affirms that the banks are big believers in the efficacy of housing counseling. To that end, they voluntarily added the $250-per-notice-of-default fee to the FFA's language, to ensure that counseling will be adequately funded from now on. "We are encouraged by the way the bill ultimately concluded and was signed by the Governor," Denny says. "This Act would not have happened without the active involvement of the Commission. We do believe that the focus of the bill is on housing counseling, and getting borrowers who are facing foreclosure the resources they need to work with their financial institution. We believe that housing counselors are the lynchpin of that strategy.

"What we've found around the country," he continues, "is that if you can get a consumer to a housing counselor, it goes better for them — and for the bank. What housing counseling can do are two very important things from a bank's perspective. One, it helps borrowers get their financial affairs in order and organized. And the second thing it does is provide an independent person that works on behalf of the borrower. They can say to the borrower: 'The best course of action for you in the real world, is to go with x or y.' Be it a loan mod or short sale, when the advice comes from the bank, they're more guarded. When it comes from their counselor, it can really help the process."

One concession made to the banks during the mediation process was that, during mediation, a decision maker from the bank needn't be present in person. "It's really most efficient in the vast majority of cases," Denny explains, "to access that person on the phone, so they can be in front of their computers and processes so mediation runs efficiently and people can get an answer in real time."

Ultimately, he points out, the banks want fair resolution just like everyone else. "In the 40,000-foot scheme as it relates to

DENNY ELIASON
Lobbyist, Washington Bankers Association

foreclosure," Denny concludes, "you have to have a process that works. Otherwise you have too much risk within the lending equation. That will ultimately affect the pricing of mortgages. So everyone had an interest in making sure that the process can work."

"We do believe that the focus of the bill is on housing counseling, and getting borrowers who are facing foreclosure the resources they need to work with their financial institution ... housing counselors are the lynchpin of that strategy."

The housing market's not yet out of the woods

Denny's last point is an important one. The objective of the FFA is to set the stage for solutions that will work for both banks and homeowners. We need healthy financing institutions to continue to be able to provide affordable financing for homebuyers. It's a matter of balance: To get our housing markets stabilized, first-time homebuyers and other purchasers of residential real estate need to be able to access affordable home loans. They also need to trust that they will not be buying a home that will decrease in value in the coming years; hence, the urgent need for stabilized markets. Which in turn require a healthy, stable financing system.

Right now, it appears as though we still have a way to go to seeing stabilization in our housing markets.

Glenn Crellin, based in Pullman, is the Director of the Washington Center for Real Estate Research. I asked him what facts he has at his disposal to indicate when Washington State might see a housing market turnaround. "What we have gone through is a horrendous experience," he says. "We're at the very beginning of seeing the turn, but it'll take a long time before we get back to normal."

Here are his specifics, based on the most recent data available (end of 4th quarter 2010): "For the State of Washington, the serious delinquency rate, which is those properties that are pre-foreclosure—at least 90 days past due, but may not have entered the foreclosure process—plus those that are part of the foreclosure inventory, was continuing to rise modestly." The good news is that the change in that rate over the course of 2010 was extremely gradual. "I expect that number is going to start declining," he says.

What's not declining yet is the inventory of properties that are in the foreclosure process. In other words, we're beginning to see a reduction in terms of new properties under distress, but those that are in the system are still there. "That's because," explains Glenn, "the duration of the time elapsed between the beginning of the foreclosure process and the property becoming real-estate owned on the part of the financial institution has stretched out incredibly."

The pace of foreclosure has slowed dramatically, not just here, but across the U.S. "And here, that's going to slow even further under the FFA. By and large," he says, "I think that's a good thing. If we can keep more of those households in their properties, the whole market is going to be much better off."

About the new legislation, Glenn says, "Forcing the lenders and servicers and the borrowers to communicate more openly and to look for ways to try to modify some of those loans in hopes of keeping them current—I certainly hope it can work. We need stability to re-enter the process. The statistics that were released recently by Northwest MLS highlight the fact that the market is still struggling. Sales are down compared to a year ago. Prices are down compared to a year ago. The market's not out of the woods."

GLENN CRELLIN
Director, Washington Center for Real Estate Research

"We need stability to re-enter the process. The statistics that were released recently by Northwest MLS highlight the fact that the market is still struggling."

New, effective tools for housing counselors

As Regional Manager, Community Development with the Seattle Branch of the Federal Reserve Bank of San Francisco, Craig Nolte works across a five-state territory to seek out systemic problems in our regional economy. His role includes bringing communities together to problem solve on economic challenges. In recent years, Craig has spent a lot of time crisscrossing the region to help communities create responses to the foreclosure crisis by, among other things, promoting public education, sponsoring trainings for housing counselors, and sponsoring borrower events for distressed homeowners to meet with bank servicers.

From his talks with housing counselors, Craig is beginning to see some positives emerging. "Overall, he says, "the level of communication between banks and housing counselors is just getting better." He points to the relatively new HOPE LoanPort, an Internet-based software tool that facilitates communications between the housing counselors and the banks, as a key part of this. When counselors can make use of this tool—when a bank makes this an option—they are having more success in getting answers. One of the benefits of this portal is that it enables counselors to submit documents on behalf of the distressed borrowers—and it gives them a tracking number for documenting and following up on those submissions.

CRAIG NOLTE
Regional Manager, Community Development
Seattle Branch, Federal Reserve Bank of San Francisco

But, as Craig says, these tools like HOPE LoanPort and borrower events that can help distressed borrowers are meaningless "if we can't reach them in time." Craig has been looking at "other ways to reach these distressed borrowers" with the help of his organization. He adds that there still remains a lot of confusion and misinformation regarding whether distressed borrowers should still be making their mortgage payments. Craig emphasizes: "It's to the borrower's detriment if they start skipping payments because it makes them ineligible for certain programs."

"Overall, the level of communication between banks and housing counselors is just getting better."

Housing Counseling: The view from the trenches

Here at the Commission, we enjoy a direct relationship with our state's housing counselors. We are the administrators of the state dollars, along with a portion of the federal dollars, allocated for foreclosure counseling. We have seen the successes housing counseling achieves in our state, year after year. Just as an example, our sub-grantee agencies assisted 2,210 households in the last 12 months. Out of this number, 2,159 avoided foreclosure.

We also know well how hard foreclosure counselors work to help homeowners achieve these successes. I wanted to share some of their perspectives on the FFA, and how it might impact their organizations and the people they counsel.

I'll begin with Alex Kamaunu, who is Executive Director of Family Finance Resource Center (FFRC) in Longview. Alex's was a strong voice in Olympia during the hearings on the FFA, and this is what he says about the result: "I think the FFA is a victory. It also shows that this state is serious about foreclosures. All we're trying to do is create a solution. That's what mediation really is, a communication solution." For Alex, a very important part of that solution is having the banks "capitalize the homeowner counseling fund."

Ultimately, Alex believes, even more critical is the notice served by the FFA: "Lenders, when they look at Washington State, will know that mediation is here. I think when lenders look at this, they're going to work at a more diligent pace with our homeowners who are reaching out to these larger lenders—so they don't have to go to mediation. It puts us on the radar. That's what I hope comes out of it, that the lenders will be motivated to open up their communications."

Alex was a mortgage broker in Las Vegas for a decade before moving to Longview to lead FFRC in 2007, and he certainly understands the challenges facing both sides of the lender/borrower paradigm. He acknowledges how critical the role of counseling is—to both parties involved. "The lenders and their interests—everyone spoke on behalf of how valuable counseling agencies are. Because we are truly the homeowner's advocate. But," he adds, "we also demand reasonable expectations. If someone doesn't have the ability to pay their mortgage, their options are severely limited. We have to perform due diligence, and be the ones who deliver that message, too."

"We also demand reasonable expectations. If someone doesn't have the ability to pay their mortgage, their options are severely limited. We have to perform due diligence, and be the ones who deliver that message, too."

— **ALEX KAMAUNU**

Yvonne Fengler, Housing Counselor with Consumer Credit Counseling Service of Tri-Cities (CCCS), agrees. "At times," she says, "there's an assumption that housing counselors are only looking at cases from the homeowner's perspective. Financial advocates are very aware that the bank needs to make its money and that we cannot save every house that comes through our doors. We do make it about the numbers. And we can give people an advocate who understands their circumstances, but we also give them a perspective that if the loan doesn't

ALEX KAMAUNU
Executive Director, Family Finance Resource Center, Longview

make sense to us it's not going to make sense to the bank." Yvonne also believes that the new law is "a step in the right direction. Getting all the accountable parties to a third-party mediator can only be a positive."

Linda Taylor, Housing Director at Urban League of Metropolitan Seattle (ULMS), sees yet another positive to come out of the new legislation. "I think it will do something that I didn't expect it to do, and that's encourage more banks to open service centers and add additional people on the local level to look at loans so they can solve these issues before they get to mediation," she says. She points to a big bank's recently opened service center in downtown Seattle, whose staffing includes a decision maker, something that would have been unheard of even a year ago. "I expect the larger banks to open up more service centers with more of their counselors and decision makers available in them," Linda says. "These service centers are proving to be very helpful to housing counselors in resolving documentation issues."

As the funding comes in from these big banks through the Foreclosure Fairness Account to help support expanding their counseling operations, all three of these agencies are ready and willing to expand their staffing. One great challenge is the training and expertise required. In the case of ULMS, Linda says, she's "poised to do it." She can bring back some counselors who were previously laid off due to lack of funding. In the Tri-Cities, Yvonne has been seeing about 10 new cases a month, in a relatively stable housing market. Recent layoffs in the area may change that picture; "if our economy continues to slide, we'll be seeing a need for more counselors," Yvonne says.

Alex and FFRC have been building up capacity internally. "Getting up to speed is a risk that I've presented to our board," he says. His organization doesn't have the ability to hire additional personnel until they receive the new funding. But they currently have part-time staff members who are already assisting counselors. These staffers can go through the formal counselor training offered by NeighborWorks. "Once we receive the monies from the state, two of them can potentially go full-time. We're just not sure yet what the demand will be."

Alex closes by passing along "congratulations—to Washington State leadership, and to Representative Orwall and Senator Kline for being the champions and taking this forward. These stronger protections will help keep families in their homes, and everything that goes with that. It will help prevent families from being displaced. Keeping them within the state will help the economy, and help the municipal tax base. And it is forward thinking. We are one of only three of 27 non-judicial states that has mediation. We owe it to state leadership that they pushed this forward. And the lenders did oblige because they understand that we're trying to help them as well."

YVONNE FENGLER
Housing Counselor, Consumer Credit Counseling Service of the Tri-Cities

LINDA TAYLOR
Housing Director, Urban League of Metropolitan Seattle

Implementing and publicizing these new homeowner rights

As I alluded to already, creating this new legislation was not an easy process. I want to give credit to all parties involved, in sticking with this effort and finding a way to come to agreement on the final version. The outcome was indeed a victory for all of us. Among the very many people who played an important role in its passage, I would like to particularly single out Rep. Tina Orwall, Senator Adam Kline, Bruce Neas, Denny Eliason, and Danielle Friedman.

Tina puts it this way: "I really appreciate that everyone did come to the table. It was difficult; it was uncomfortable. Everyone had to compromise, and that's how we got to a good place with the Act. We all learned a lot along the way."

There is still so much to be done. Many of our state agencies, banks and nonprofits are in the process of formalizing compliance. Forms must be created; banks are exploring how the new legislation will alter their guidelines. Commerce is currently receiving contributions from the banks to the Foreclosure Fairness Account; the common estimate places that number at approximately $7.5 million for the first year. Although the bulk of this will go to fund housing counseling, other portions have been allocated to the AG's office for enforcement; to the office of civil legal aid for legal representation for homeowners; to Commerce for implementation of the Act; and to DFI to conduct outreach, advertising and education programs for homeowners.

The 18 agencies in our state that offer housing counseling have the most daunting task of all. We need to drastically increase the number of counselors. This can't be done without their commitment to hiring new counselors, ramping up support staff, and providing substantial training.

There are many details to work out about how the mediation process will be set up and what happens during mediation. Thorough training will be needed; mediators must be able to understand highly complex home financing numbers. Establishing this training is well underway. Commerce is charged by the Act with recruiting these mediators and ensuring they get what they need. As Bruce Neas points out, "We don't yet have one experienced foreclosure mediator in the state. Hopefully we'll have a lot more than that in a year's time."

Also, we must be vigilant to root-out and expose scammers of distressed homeowners. DFI's role will be critical. We must ensure that every homeowner in distress knows about the rights the FFA makes available to them. But DFI can't do this alone. Let's get the word out.

The best first step for homeowners who need assistance is to call the Washington Homeownership Information Hotline: **1-877-894-HOME (4663)**. By calling this number, they can be connected with a housing counselor, get help in understanding their options, and become eligible to participate in mediation.

Thanks again to everyone who contributed their voices and energies to the passage of the Foreclosure Fairness Act. If we can now publicize it effectively, it's going to make all the difference.

The Washington State Housing Finance Commission is a publicly accountable, self-supporting team, dedicated to increasing housing access and affordability and to expanding the availability of quality community services for the people of Washington.

WASHINGTON STATE HOUSING FINANCE COMMISSION

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