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Community Response to the Foreclosure Crisis:

Thoughts on Local Interventions

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Immergluck publishes regularly in scholarly journals, as well as in more applied venues, and has testified before Congress, the Federal Reserve Board, and state and local legislatures. His work has been widely cited in research around the foreclosure and mortgage crisis, and he has been quoted or cited in the a wide variety of media, including the *New York Times*, the *Wall Street Journal*, *TIME Magazine*, *USA Today*, the *Boston Globe*, the *Chicago Tribune*, the *Associated Press*, and many others.

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Introduction

In the wake of the ongoing national mortgage crisis, preventing or mitigating foreclosures and facilitating recovery from the damage they cause have become tremendous challenges for community developers, policymakers, and a wide variety of other actors in cities and metropolitan areas. In a 2008 survey of forty-two cities by the U.S. Conference of Mayors (2008), 53 percent of the municipalities rated their local foreclosure problems as serious or very serious. Another 29 percent rated their problems as moderately serious. Moreover, 71 percent of respondents anticipated that over the subsequent year their foreclosure problems would worsen.

While mortgage regulation and foreclosure laws are generally the domain of federal and/or state government, local governments and organizations have attempted to respond to rising foreclosures in various ways.[1] Sometimes this response has meant forming coalitions to change state laws, or banding together with groups in other parts of the country to advocate for a federal policy response. At the same time, however, local governments, nonprofits, and even some local banks have not been able to rely solely upon their ability to effect higher-level policy change. Rather, their responses have also included direct, local action, often in collaboration with other groups.

The purpose of this paper is to lay out the range of responses to the foreclosure crisis in which local organizations have been engaged in recent years. It is not intended to be a catalogue of best practices. Rather, it uses examples of strategies and programs only for illustrative, explanatory purposes. Moreover, there is no attempt made to evaluate the effectiveness or impact of any of these strategies or tactics. The primary purpose is to provide a scheme for thinking about local responses to the crisis and the actors and organizations involved. It is also intended to help groups identify where responses in their community might be expanded or strengthened. It is important to point out here that the paper generally does not address efforts to reduce high-risk lending in communities or to improve access to sound and affordable mortgage credit. While these are critically important and complementary strategies, they are beyond the scope of this paper.

I begin by discussing the sorts of constraints and opportunities that local actors—primarily government and nonprofits in this context—can face in attempting to deal with foreclosure-related problems in their communities. The next section classifies responses to foreclosure crises and, in a broad way, suggests which types of organizations tend to be most involved in different categories of response. The final section discusses each category of response in more detail, sometimes using examples from around the country on how local actors have developed, or are developing, responses in the face of what are often very severe challenges.

[1] I use the term "local" quite broadly in this paper to refer to organizations working at the level of neighborhoods, municipalities, counties, or metropolitan regions. For more information on state responses to foreclosure crises, see Mallach (2008), Pew Charitable Trusts (2008), and www.nga.org.

Context, Constraints, and Opportunity Space

When considering local action in the face of very high foreclosure rates, it is important to understand the constraints that local actors face, both in the near and longer terms. Identifying these constraints, which may change over time, helps local actors understand their "opportunity space." By opportunity space, I mean the sorts of strategies and tactics that local actors might pursue in the near term to respond to foreclosure-related problems.

By themselves, local government, community groups, and the local private sector can do only so much to address rising foreclosures. The root causes of the foreclosure crisis, including lending and regulatory policies and practices, lie at a much larger geographic scale than a particular city or metropolitan area, and local governments are typically limited in their ability to do things like regulate lending or change foreclosure processes. Therefore, it is important to understand the scope and extent of what actors operating at the local level generally can or cannot do, at least in the near term. Given limited resources at a particular point in time, understanding this context will help local actors maximize the impact of their responses and encourage the recovery of neighborhoods and families. In the longer term, local actors can come together—sometimes in coalition with groups from other cities and metropolitan areas—to push for policy and systemic changes at the state and federal level.

The opportunities and constraints that local actors face in responding to the foreclosure crisis depend upon the specific type of problem being addressed. Constraints will include those that are economic, legal and/or political in nature. In terms of economic constraints, for example, a metropolitan area facing a large, overall decline in its population and employment base may find it difficult—in the near term at least—to successfully rehabilitate a very large percentage of vacant properties for housing. While a recovery plan may include some rehabilitation or construction, demolition of dilapidated units may be called for as well. Careful and deliberate repurposing and rezoning of land uses may be needed in such places.

Constraints can also be legal or political. For example, from 2000 to 2002, several municipalities around the country that attempted to reduce predatory lending (and thus to some degree, resulting foreclosures) by passing ordinances barring commercial and investment banks affiliated with predatory lenders from doing business with local government ran into serious obstacles. First, some courts viewed such activity as a form of mortgage lending regulation and struck the laws down because local government is generally not viewed as having the authority to regulate mortgage lending for consumer protection purposes.[2] In other localities where the laws did go into effect, they were often seriously limited in that many of the "worst" predatory lenders were not covered by the laws since they were not affiliated with firms doing business with government.

[2] Local antipredatory lending ordinances have been overturned by courts in Oakland, Atlanta, Montgomery County, Maryland, Cleveland, Dayton, and other localities. In some localities, they have survived court challenges. See Butera and Andrews (2007).

And, even when states made efforts to regulate subprime lending beginning in the late 1990s, federal regulators frequently preempted these regulations, arguing that the states did not have the purview to regulate certain classes of lenders, such as national banks, thrifts, or their subsidiaries.

Over the longer term, opportunity space can become somewhat fluid as constraints may change. First, the context for response might change because of external reasons that are not the direct result of local action. These external reasons might include changes in macroeconomic conditions or in some other, perhaps policy-oriented, context. For example, in considering again the example of financial regulatory preemption, regulators frequently have some discretion over how aggressive they are in preempting state consumer lending laws. If federal agencies chose to preempt fewer such laws over time, the opportunities for stronger regulation at the state level would be expanded, and, as a result, regional coalitions may be more motivated to influence state policy and regulation in this arena.

The second way in which the opportunity space of local organizations may change is if they are able to bring about policy change at the state or federal level. This is especially true with regard to real estate law (e.g., foreclosure processes), which is primarily the purview of state government. For example, if a coalition in a state with a very brief foreclosure notice period (the period of time between when the borrower is notified that the loan has gone into foreclosure and when the foreclosure is completed) were to advocate successfully for increasing the notice period, this may provide more opportunities for local counseling organizations to help distressed borrowers obtain foreclosure alternatives such as loan modifications.

State policy is not the only arena in which policy advocacy can work to change the opportunity space for local groups responding to surging foreclosures. In the area of neighborhood recovery, local governments and nonprofits successfully advocated for the Neighborhood Stabilization Program (NSP) as a part of the 2008 Housing and Economic Recovery Act (HERA). The NSP provides $3.9 billion to state and local governments for dealing with foreclosed properties.[3] This new program has expanded the boundaries of what local actors might be able to do to reclaim vacant, foreclosed properties. This is especially true given the otherwise stressed fiscal conditions of many communities hit hard by foreclosure problems. The availability of federal funds may also help indirectly by spurring larger-scale efforts and a sense of urgency around recovery efforts, especially given the program's relatively brief eighteen-month window.

The short-term opportunities for a particular type of organization (e.g., credit counseling agencies or central city governments) can vary across regions. This may be due not only to differences in

[3] NSP funds will be delivered in a similar fashion to Community Development Block Grant (CDBG) funds but are a one-time distribution to entitlement communities and states. Moreover, there are some substantial and important differences from the CDBG program. These include a much narrower focus on reclaiming vacant, foreclosed properties. Also, unlike CDBG, a substantial portion of the funds can be deployed directly by state government agencies. Recipients must submit an action plan by December 1, 2008. For more information on the NSP, see http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/. This page has detailed information on the NSP plus links to many Web sites with information related to neighborhood and property recovery. Also, NeighborWorks will be launching a Web site (www.stablecommunities.org) in October aimed at being a "one-stop shop for resources and information on stabilizing communities in the wake of the foreclosure crisis."

underlying legal or administrative structures, such as different state-level foreclosure processes or differences in access to decent quality and affordable real estate data, but also to longer-term economic and housing market conditions, especially whether the metropolitan area is one that is exhibiting population and income gains or losses over the longer term. Also, the range of legal authority that local governments possess varies from state to state. Finally, financial and other resource constraints may vary across cities and metropolitan areas. For example, cities or suburbs with weak fiscal structures may have fewer options than more fiscally robust cities or suburbs.

Notwithstanding differences in the legal context and housing market conditions of a metropolitan area, other factors may also influence the level and nature of the regional or local response to high levels of foreclosure. For example, a city or metropolitan area may have a good deal of governmental or nonprofit capacity in the community development arena. Some metropolitan areas may have closer and stronger linkages between government and nonprofit community developers and financial institutions. Moreover, many commentators will point to the importance of having political, philanthropic, and other civic leadership that is concerned with issues related to housing and community development more generally. While identifying all such factors in the local response to the foreclosure crisis is not the purpose of this paper, it is helpful to recognize the potential ingredients or barriers to a vigorous response to surging foreclosures.[4]

Classifying Local Responses to Foreclosure Crises[5]

Before looking more closely at the ways in which local organizations are responding to foreclosure crises, it is helpful to consider what sorts of responses might make sense within the opportunity space that organizations of a certain type tend to encounter. Again, realistic opportunities for response are not uniform across states or metropolitan areas, but they do tend to vary much more across than within organizational types, even when comparing interventions across different localities. For example, municipal governments are generally confronted with similar constraints, regardless of their location, as compared to state governments or nonprofit credit counselors.

One way to help understand the opportunity space of an organization or set of organizations is to examine the responses that similar organizations have tended to focus on in other cities. Figure 1 provides a basic classification of local responses to foreclosure crises and indicates the sorts of response in which different types of organizations tend to be more involved. It may help provide a starting place for thinking about the general opportunity space of different sorts of organizations.

[4] Some attempt to identify the factors that appear to affect a metropolitan region's overall response and "resilience," to foreclosure crises is a component of an ongoing research project, "The Metropolitan Response to Foreclosures: Studies in Regional Resilience," directed by Todd Swanstrom, Karen Chapple, and Dan Immergluck.

[5] Although Figure 1 indicates the role of the private sector in recovery, the focus of this paper is on the activities of public- and nonprofit-sector organizations and less on those of financial institutions, private developers, or other private-sector actors.

Figure 1. Classifying Local Responses to Foreclosure Crises

	Foreclosure Prevention	Mitigating Community Impacts and Recovery		
Organization Type	Outreach, Counseling, and Obtaining Loan Modifications	Short-Term Mitigation and Containment of Spillover Problems	Property Reclamation and Recovery	Household Recovery
Nonprofit Sector				
Community development organizations (CDCs, CDFIs)	♦♦♦	♦	♦♦♦	♦♦
Community organizing groups	♦♦	♦♦	♦	♦
Policy/consumer/fair housing/tenant advocates	♦	♦	♦	♦♦
Credit counseling services	♦♦♦			♦♦♦
Legal aid groups	♦♦♦			♦♦♦
Public Sector				
Local government	♦♦♦	♦♦♦	♦♦♦	♦♦
Regional planning or municipal associations	♦	♦♦♦	♦♦	♦
State government	♦♦	♦	♦♦	♦♦
HUD	♦		♦	♦
Federal Reserve Bank or other regulators	♦		♦	♦
Private Sector				
Banks/lenders/servicers/developers	♦♦♦	♦♦	♦♦♦	♦
Cross-Sectoral Collaborations				
Coalitions, taskforces, etc.	♦♦	♦♦	♦♦	♦

♦♦♦ Likely major focus
♦♦ Likely moderate focus
♦ Likely limited focus

Of course, not all localities have a highly robust set of responses across all of the categories in Figure 1. This is partly because opportunity spaces can vary dramatically across different states, regions, and cities. There may, for example, be little local funding for a particular set of activities. Moreover, within each response category, there is often a great deal of variation in the capacity and experience of the responding organizations.

Different types of organizations will tend to focus on some areas of response more than others, depending largely on their existing capacities and their broader mission and objectives. The expected focuses of the various organization types are indicated by the diamonds in the respective cells, with three diamonds equating to a major focus, and one diamond equating to a limited focus.[6]

The two broadest categories of responses are (1) prevention, in which efforts are made to reduce the number of families and households compelled to leave their homes because of foreclosure or loan distress, and (2) mitigation of neighborhood/community impacts and recovery (of both households and communities). The second category, in turn, includes at least three subcategories of activities. First is a set of efforts aimed at reducing blight and other negative outcomes often associated with foreclosed properties. The objective here is to reduce any negative spillovers of the foreclosures on the neighborhood or local municipality. This may involve ensuring that properties are kept secure and that they do not pose public safety risks, but also that at least their visible exterior is satisfactorily maintained.

The second subcategory is the set of efforts aimed at getting properties reoccupied, rehabilitated, and/or adapted for reuse. A major motivation for these efforts is to minimize the harm that vacant buildings can pose to neighborhoods and cities. When foreclosed properties are located in neighborhoods that do not have severe vacancy problems, efforts may simply involve marketing efforts or matching homebuyers or landlord-buyers to foreclosed homes. Some local governments offer purchase-rehabilitation loans to attract buyers and encourage improvements to the properties. Some NeighborWorks-affiliated groups are essentially acting as real estate brokers for selling foreclosed homes and facilitating short sales. More ambitious efforts in this arena involve local governments or nonprofits acquiring properties for rehabilitation and resale or reuse. In some places, efforts might also include some demolition of dilapidated buildings and/or redeveloping land for alternative reuse.

[6] These intensity ratings are not highly deterministic but, rather, are based on a general understanding of traditional capacities and organizational missions, a review of applied writings and materials on foreclosure responses, and observations from an ongoing study of regional and local responses in six metropolitan areas. The study is “The Metropolitan Response to Foreclosures: Studies in Regional Resilience,” directed by Todd Swanstrom, Karen Chapple, and Dan Immergluck.

The third subcategory of responses under the broader category of mitigation and recovery is that of individual recovery. That is, how can and do organizations respond in order to reduce the harmful impacts of foreclosure on families and households affected by foreclosures?[7]

In general, many of the policy discussions and responses around recovery issues have focused much less on individual and household recovery than on neighborhood recovery. Yet, foreclosures can cause families (both owners and renters) to have to switch school districts at inopportune times, disrupt important social and familial networks, and create emotional and psychological distress. Moreover, foreclosure can do significant damage to one's credit history and credit score, which in turn can dampen future economic opportunity. Credit history information can be a key determinant of access and pricing in all sorts of critical markets, including those for rental housing, automobile insurance, and employment (Fellowes 2006).

Foreclosure Prevention: Outreach, Counseling, and Loan Modifications

The first category of responses to surging foreclosures is foreclosure prevention, shown in the leftmost column in Figure 1. Sometimes referred to as dealing with the "front-end" problem, foreclosure prevention activities consist of outreach to distressed homeowners; group and one-on-one counseling, including both in-person and telephone (and sometimes Internet) counseling; and efforts to modify the terms of loans or find some other alternative to foreclosure.[8]

Outreach efforts can involve measures to contact at-risk borrowers to connect them to counseling and/or legal resources or simply to encourage them to contact the loan servicer before they get farther behind on the mortgage.[9] Some local initiatives have worked with loan servicers to invite at-risk borrowers—via direct mail and/or advertising initiatives on public transit or the like—to counseling events or merely to encourage borrowers to call a counseling hotline.

Counseling programs can involve in-person counseling, telephone counseling (usually done by relatively large consumer credit counseling agencies and often in cooperation with the national HOPE NOW initiative, the program developed in 2007 by the financial services industry in cooperation with the U.S. Treasury Department), or even Internet counseling. In-person counseling is performed both through group counseling arrangements and through one-on-one meetings with counselors. Some nonprofit counseling agencies conduct or participate in large

[7] Foreclosure prevention efforts tend to be less concerned with foreclosures involving investor-owned (typically rental) properties except to the extent that they result in the eviction or sudden displacement of lower-income rental households. However, it should be noted that, beyond impacts on tenants, foreclosures involving investor properties also have significant spillover impacts for neighborhoods.

[8] For a highly detailed set of design principles for local approaches to foreclosure prevention, see NeighborWorks (2007).

[9] There is significant debate over the effectiveness and fairness of different approaches to assisting borrowers at this phase, with some arguing that distressed borrowers should always be provided with legal representation in dealing with lenders. Certainly, if feasible, legal representation would generally be optimal, but the evaluation of any particular approach is beyond the scope of this paper.

counseling sessions in partnership with representatives from loan-servicing firms (sometimes via the HOPE NOW initiative). Some of these larger sessions have been organized or facilitated by local government or other public-sector organizations.

The renegotiation of loan terms generally falls into two categories: (1) loan repayment, forbearance, or short-term modification plans that may require borrowers to catch up on their arrears or may reduce monthly payments for a short time, and (2) long-term loan modifications, in which loan payments may be frozen (before they increase as a result of interest rate adjustments) or reduced over a period of years. Even within these categories, however, loan workouts can vary a great deal—ranging from very modest changes to substantial reductions in loan payments, interest, and/or principal over long periods.

In addition to working on-the-ground to obtain loan modifications and workouts, organizations trying to prevent foreclosures may also focus on policy changes, usually at the state level, to make alternatives to foreclosure more feasible. For example, Maryland recently extended the period of time between when lenders provide notice to borrowers that a foreclosure is being initiated and when the completed foreclosure sale occurs.[10] Longer periods of time can provide more opportunities for borrowers to contact counselors or legal assistance and to interact with loan servicers, who can be overwhelmed with delinquent borrowers during episodes of escalating foreclosures.[11]

As suggested in Figure 1, the organizations expected to be most heavily involved in foreclosure prevention activities include some community development organizations, credit counseling agencies, legal aid groups, and local government (especially housing or neighborhood planning agencies), as well as banks, lenders, and loan servicers. State government sometimes also supports foreclosure prevention services. The community development groups that tend to be active in foreclosure prevention are often those that have traditionally focused on homeownership promotion and, in recent years, have moved toward more focus on sustaining homeownership rather than simply promoting first-time homeownership. Prominent among such groups are nonprofit organizations across the country affiliated with NeighborWorks.

Credit counseling services agencies, which up until the last decade had focused more on credit card and bankruptcy counseling than on mortgage counseling, have become major players in outreach and the delivery of foreclosure prevention counseling, with most of their counseling services being delivered by telephone. This contrasts with the efforts of most community development groups, which tend to focus on in-person counseling.

[10] "Foreclosure sale" refers to the completion of the foreclosure process, sometimes referred to as the "sheriff sale" or "court action" in judicial foreclosure states and as the "deed under power of sale" in nonjudicial states.

[11] There can be some tension between the goals of preventing foreclosures and returning foreclosed homes to active use. An example is the length of the foreclosure process. Longer processes generally provide borrowers with more time to seek alternatives to foreclosure, seek legal representation, and the like. However, very long processes (e.g., over one year) may create problems in attempts to get properties back into use and subject them to increased neglect and vandalism. Of course, to the extent that fast foreclosure processes increase completed foreclosures, they may create more vacancies.

In some places, including Cleveland and Chicago, local government has been a driver of outreach to distressed borrowers as well as a deliverer of counseling services. Even with local government being a key player, however, these programs are usually primarily delivered through funding community development, legal aid, and credit counseling groups. Finally, community organizing groups and cross-sectoral collaborations or coalitions are also likely to be prominent in foreclosure prevention activities in some areas.

Among the best-known foreclosure prevention operations in the country is the Homeownership Preservation Initiative (HOPI) in Chicago. HOPI is the principal foreclosure prevention and vacant property reclamation program in Chicago and involves a partnership of Neighborhood Housing Services (NHS) of Chicago, the Chicago Department of Housing, 22 financial institutions, and the Federal Reserve Bank of Chicago. HOPI, which formally began in 2003, reported the prevention of over 1,700 foreclosures from 2003 to May 2008. One of the innovations in HOPI was utilizing the city's 311 nonemergency citizen-assistance telephone line for linking homeowners to counseling assistance, a practice that has been adopted by many local governments around the country. As foreclosures mounted in 2007, the intensity of these efforts increased, with the city holding ten "Borrower Outreach Days" from October of 2007 through April of 2008. Major mortgage servicers were invited, as well as the eight housing counseling agencies funded by the city for foreclosure prevention. The city estimates that approximately 2,000 borrowers attended these forums.[12] The city has also reduced the time between when legal foreclosure filings are publicly listed and the time when it mails these borrowers postcards advertising the city's counseling services. While in the past postcards were mailed quarterly, they are now mailed weekly.

One of the key challenges in the foreclosure prevention arena has been in trying to help homeowners obtain loan modifications that result in significant, long-term reductions in monthly payments and enable borrowers to stay in their homes. Much of the national attention in this regard has focused on the HOPE NOW initiative. Less attention has focused on local efforts, many of which predated the HOPE NOW initiative. The challenges of loan modifications have been aggravated by the rapid increase in loan defaults as well as by the complexities stemming from highly structured loan securitizations and the abundance of junior mortgages in recent years.[13]

Some local organizations appear to have achieved considerable success in obtaining loan modifications from particular loan servicers. In Cleveland, a nonprofit community organizing group, Empowering and Strengthening Ohio's People (ESOP), has negotiated agreements to

[12] Conversation with Ellen Sahli, Commissioner, Chicago Department of Housing, July 10, 2008.

[13] Some of these problems stem from the difficulty of attempting to modify loans when securitization agreements did not originally provide for large numbers of modifications. Other problems stem from the lack of transparency and clear access to parties that have the ability to negotiate modifications. Finally, junior mortgages, which have grown popular since 2000, add another obstacle. Having a second-lien lender involved often creates an added layer of complexity because such loans are typically held in a separate securitization. Also, such lenders will often have little incentive to participate in any arrangement where principal amounts are reduced because such modifications or refinancings would essentially leave them with no secured position on the restructured loan.

increase loan modifications with a large number of servicers and reports high rates of successful loan workouts (Swanstrom 2008). In general, the results of loan modification programs appear to be somewhat mixed.[14]

Other organizations have made significant efforts to reduce the frustration and time involved in pursuing loan modifications. This is an important task because, by the time borrowers reach a counseling and prevention organization, they can already be quite frustrated or fatigued from their own attempts to connect to and interact with the correct loan servicing personnel. Traditionally, counselors have had to compile a good deal of information on the borrower's financial status, fax it to the servicer, and wait for a response. It can often take several iterations between the servicer and the counselor before the servicer is satisfied that it has sufficient information to determine whether a loan modification is feasible. Recently, some counseling organizations and servicers have begun to use software to speed this process along and to reduce the attendant frustrations. For example, some NeighborWorks affiliates are now using a tool called "Best Fit" to speed loan counseling and workout negotiations with servicers. The software was adapted from Neighborhood Housing Services of America, an affiliate national secondary market operation of NeighborWorks. Best Fit allows counselors to input all the necessary data about a loan and a borrower into the program and then transmits it to the servicer. The servicer then has all the data it needs to formulate workout options.

Some local groups have also responded to rising foreclosures by arranging for or providing loans to refinance borrowers into more affordable loans, especially when loan modifications do not appear to be an option. In Atlanta, for example, Atlanta Legal Aid has helped some of its senior clients use reverse mortgages to pay off unaffordable subprime loans so that they can stay in their homes. The reverse mortgages are typically used after Legal Aid staff are able to negotiate "short payoffs," in which the existing lender agrees to forgive some significant balance on the outstanding loan. Because reverse mortgages do not have income requirements, they can sometimes be the only alternative for a senior on a modest fixed income to refinance a loan. As far back as the early part of the decade, NHS of Chicago and the Legal Assistance Foundation of Metropolitan Chicago, as well as other groups around the country, had established loan programs to refinance homeowners who received predatory or abusive loans into fairer and more affordable loans. These loans also typically involved negotiating a short payoff, allowing the new loan to be a smaller one.

[14] The recent announcement of a settlement between the Attorneys General of eleven states, led by California and Illinois, and Bank of America (in its role as successor to Countrywide Financial, which it acquired), which appears to include a more forceful loan modification program than has been attempted elsewhere, will be an important development to watch (Morgenson 2008). It also provides a clear example of how state policy and action can change local opportunity space in the foreclosure prevention arena.

Short-term Mitigation and Containment of Spillover Problems

One of the principal concerns of communities suffering from large numbers of foreclosures, especially in an overall weak housing market, is that vacant, foreclosed homes can become unsightly, blighted, or even dangerous and pose substantial threats to a neighborhood's stability and quality of life. These problems, in turn, can lead to increased costs and decreased revenues for local governments. In fact, the need for mitigating and reducing blight and negative spillover effects may often be greatest when local government budgets are already strained as a result of declining property tax revenues.

Many cities and suburbs around the country have responded to increased foreclosures either by creating or strengthening property maintenance and nuisance laws or by increasing the enforcement of laws already on the books.[15] Some localities are focusing particularly on mortgagees holding the loan both prior to and after foreclosure. Cities are increasing fines and adding requirements for securing and maintaining especially the front exterior of properties. Some cities have taken to cutting grass and doing other maintenance to ensure that properties do not become too unsightly. In other places, block clubs and voluntary associations are taking on these tasks.

In general, there is a clear trend toward local governments increasing the costs of owning vacant homes and in requiring a higher standard of security and maintenance for such properties. The City of Minneapolis, for example, increased its vacant property registration fee from $2,000 to $6,000, and the City of Louisville now taxes vacant properties with unresolved code violations at substantially higher rates than other properties (U.S. Conference of Mayors 2008). In Minneapolis, the city has also begun testing the use of boards painted to look like windows as an alternative to traditional plywood (Ter Wisscha 2008).

The motivations for stricter property registration, building codes, and property maintenance laws are at least twofold. First, such measures serve the direct purpose of reducing the number of dangerous and blighted buildings in an area. Second, by making the holding of vacant homes more expensive, such laws can encourage lenders to find ways to keep people in their homes or properties occupied.

Property maintenance and security laws can help "internalize" some of the social and economic spillover costs of irresponsible lending by tying some of these costs to the foreclosing lender. Another similar local policy alternative is levying or increasing fees on foreclosure filings or notices, with the logic that foreclosures impose significant costs on local communities and government. Revenues from such fees, as well as from vacant property registration fees, could be

[15] For more information on vacant properties registration and similar ordinances see www.vacantproperties.org/strategies/tools/html and www.safeguardproperties.com/content/view/1843/106/.

dedicated to purposes related to reclaiming vacant properties.[16] In Cuyahoga County, Ohio, penalty fees for delinquent taxes were raised, and these fees were used to help support the county's foreclosure prevention programs (Swanstrom 2008)

The parties most likely to take a lead in these sorts of activities include local governments and perhaps regional planning or municipal associations. Community organizers, policy advocates, loan servicers, and cross-sectoral collaborations or coalitions may also be involved in some places.

Property Reclamation and Recovery

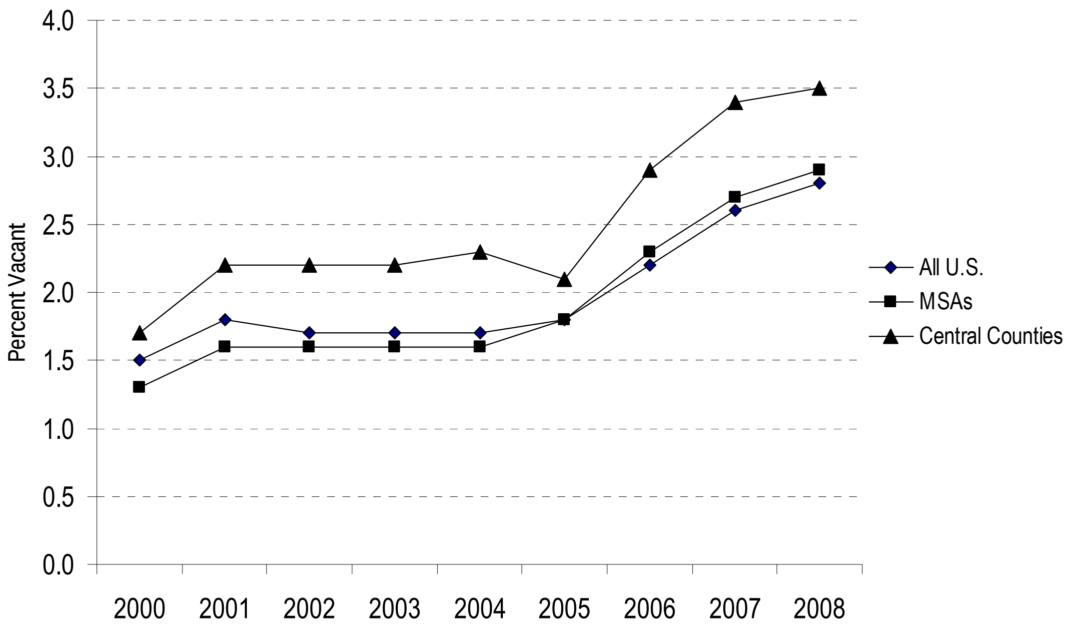
While short-term mitigation of problems resulting from vacant, foreclosed homes may help communities become more resilient in the face of surging foreclosures, the magnitude of the current foreclosure crisis has resulted in large and spatially concentrated increases in vacant homes in many metropolitan areas. While problems of vacant and abandoned housing are not new—especially in weak-market cities—the scale of vacancy and abandonment has increased dramatically in many places. Moreover, the role of mortgage foreclosure in spurring housing vacancy and deterioration has become much larger in recent years. Irresponsible and unsustainable mortgage lending has accelerated decline in many places and catalyzed new vacancies in otherwise stable communities.

Figure 2 shows that vacancy rates for owner-occupied properties have increased fairly dramatically since 2000, beginning in 2006, when the national-scale subprime foreclosure crisis began to hit its stride. Vacancy rates in the second quarter of 2008 were generally double what they were in the second quarter of 2000 and are the highest in central counties of metropolitan areas. Even in places where there had been fairly successful approaches to reducing vacant properties, the scale of the current foreclosure crisis has overwhelmed many such efforts and has threatened years, if not decades, of progress in community development.

In many metropolitan areas that, at least until recently, have had relatively robust housing markets and are not experiencing long-term population decline, the nature of subprime and high-risk lending has brought new problems and challenges associated with vacant properties. In Atlanta, for example, there are many neighborhoods on the city's south and west sides that are pockmarked with vacant properties stemming from foreclosures (Immergluck and Lee 2008). Many of these properties may have been involved in speculative or even fraudulent property flipping, which has created a complex set of problems, including outstanding mortgages that are

[16] Some are likely to argue that levying fees on foreclosure filings or holding vacant property will discourage lending in a community, but to the extent that the fees are tied to foreclosure-prone lending, the specific effects of such laws, if properly designed, may be desirable. Another concern is that lenders may defer recording of foreclosure sales if such costs become significant. To remedy this potential problem, state law could require foreclosure sales to be recorded within a brief period after the completed sale.

Figure 2. Homeowner Vacancy Rates, Second Quarter



Source: Current Population Survey

far larger than the real value of the properties, inflated property taxes based on unreasonable purchase prices, and other problems. In weak-market cities, the foreclosure-related problems are often even more challenging as the long-term prospects for housing market recovery are not as strong. In such places, local planners and community developers are undertaking or considering significant levels of demolition and land rezoning or alternative reuse as part of their overall strategies.

In places with less severe concentrations of foreclosed properties, efforts to reclaim and reoccupy properties might focus on marketing homes, establishing nonprofit real estate brokerage-type operations, and matching new homebuyers or landlord-investors with vacant properties. Another approach is to provide combination purchase-rehabilitation loans to attract potential buyers of foreclosed properties. Neighborhood Housing Services of Minneapolis has a ten-year plan to use purchase-rehab lending to reclaim approximately 200 foreclosed homes over a five-year period (Ter Wisscha 2008).

In places where foreclosed homes are more concentrated, or where the spells of vacancy are longer, efforts to assemble and acquire properties are likely to be needed. Some cities have seen nonprofits or local governments, or collaborations of the two, purchase properties for resale or rental (or some hybrid of the two), often after rehabilitation work, or for demolition. Many of the more established efforts around the country have focused either on tax-foreclosed properties or on

FHA-foreclosures through initiatives such as FHA's 602 Nonprofit Disposition Program in which it sells properties at deep discounts to local governments or nonprofits in "Asset Control Areas" (ACAs).[17]

Acquisitions of vacant properties may be done through a variety of vehicles, including land banks, community land trusts, or direct acquisition and resale by nonprofits or local government. Land banks have the advantage of being able to eliminate or reduce tax and other public liens, to hold property without it accumulating additional tax liens, and to isolate real estate assets in a dedicated property-holding entity. Local governments might also team up with large nonprofit housing agencies that have the capacity to hold and rehabilitate property (Alexander 2005).[18]

Given the scale of the problems in many cities or neighborhoods, any single initiative may not be able to acquire or deal directly with a large percentage of vacant buildings in a city or metropolitan area. It is much more likely that particular neighborhoods will be targeted. The negative spillovers of vacant properties on each other can make the problem quite daunting. For example, if an initiative is able to purchase only 25 percent of the vacant properties in a small area—which might be a sizable number of homes—it may be difficult to make the acquired houses marketable either for purchase or for rental given the remaining vacancies in the area. In neighborhoods with many vacant properties, "onesey-twosey" market-based approaches, where investors or developers may come in and pick up a few properties here and there, are likely to be very difficult. High concentrations of foreclosed or vacant homes may limit "free market" responses in some neighborhoods. In communities with fewer foreclosures, private—as well as nonprofit or public—buyers may be able to move quickly and effectively to return properties to the market.

A particular city may exhibit a number of different types of challenges with foreclosed properties. Some properties may be too dilapidated for rehabilitation, or there may be such a large number of vacant properties in the neighborhood that recovery of all the vacant homes would put too much downward pressure on an already distressed local market. These sorts of situations will likely require an acquisition-to-demolish strategy with an aim for some sort of public or private open space (e.g., parks, urban gardens, side lots, etc.) or another sort of reuse. For other properties or other neighborhoods, there will be significant demand for housing, either rental or ownership, but the buildings will be in need of significant rehabilitation. Finally, there may also be properties where the surrounding market is quite strong, and the house is in need of little or no repair and

[17] FHA 602 disposition agreements have been established with nonprofits and local governments in a number of cities, including Dallas, Chicago, Rochester, Los Angeles, and Salt Lake City. They involve the nonprofit or municipal partner acquiring essentially all FHA foreclosures in a designated Asset Control Area at substantial discounts below appraised values. Houses are rehabilitated and sold to owner-occupiers. Sometimes city governments are involved and, in most cases, nonprofits are involved, sometimes in partnership with city government. Organizations that have been involved in ACA programs include Enterprise Community Partners, NHS of Chicago, the city of Rochester, and others. For more information see Temkin et al. (2006).

[18] Land banks and other forms of government-nonprofit partnerships are specifically mentioned in the Neighborhood Stabilization Program regulations as appropriate vehicles for acquiring vacant, foreclosed properties for recovery—including either demolition or redevelopment. See http://edocket.access.gpo.gov/2008/E8-23476.htm for the NSP regulations.

quick reoccupancy is the goal. These different conditions will require different strategies and may involve different sets of organizational partnerships and resources.

Given the magnitude of the foreclosure problem in many communities, the tightening of home lending markets, and the overall weakness in housing markets generally, the number of potential homebuyers in many areas may be constrained. One approach to responding to declining numbers of eligible buyers is to convert the tenure of formerly owner-occupied properties either to rental or some shared-equity form of ownership. One approach is to develop community land trusts or limited-equity cooperatives that provide for increased affordability and reduced long-term risk to future occupants. Another tool is a responsible form of lease-purchase program, preferably managed by a housing nonprofit that maintains a strong commitment to treating tenants fairly. In this way, homes can be converted to lease-purchase units in which residents lease for a number of years, after which they become eligible to purchase the home.

One example of the lease-purchase approach is a project led by Self-Help, the large community development credit union based in North Carolina (Zuckerman 2008). Self Help will make loans to a local nonprofit partner in Charlotte for units that are then rented through a lease-to-buy arrangement to tenants who should become eligible to purchase the houses within five years. Tenants are evaluated at the beginning of their tenancy for their ability to assume ownership later and then will be revaluated at the point of purchase. The program also requires homeownership counseling for tenants.

While a detailed discussion of methods for determining how to target neighborhoods for acquisition and recovery efforts is beyond the scope of this paper, it is clear that local initiatives need to be strategic and responsive to market realities in their approaches. In Philadelphia, for example, The Reinvestment Fund (TRF), a nonprofit community development financial institution, has developed a "market valuation" approach based on a variety of neighborhood data to identify areas where reclaiming vacant foreclosed properties will have maximum impact. In particular, TRF is identifying areas where foreclosure-related vacancies are a potentially destabilizing force and not heavily compounded on top of earlier vacancies, high crime rates, and other preexisting conditions that make redevelopment extremely difficult even if foreclosed properties are directly addressed. Similar approaches are being employed in Cleveland and Chicago to ensure that resources are well targeted and projects have strong prospects for success.

The tools used by local government and nonprofits for acquiring properties can vary widely.[19] The cities of Lancaster and Palmdale in the Antelope Valley area of southern California have been hit hard by foreclosures, with a total of 3,518 in the first six months of 2008, compared to fewer than 2,400 in all of 2007 (Simmons 2008). The city of Lancaster's redevelopment agency plans to spend more than $4 million to acquire and rehabilitate more than 40 homes in the city

[19] For more in-depth discussions and more examples of methods for obtaining control of, redeveloping, and/or demolishing vacant properties, see Alexander (2005), Mallach (2006), NeighborWorks (2008), and U.S. Conference of Mayors (2008).

and began taking ownership of properties in May 2008. The homes will then be sold to moderate-income families.

Nonprofit community development organizations, often in collaboration with local government, have often been the key players in neighborhood recovery efforts. In Chicago, NHS, through the HOPI collaborative, has acquired—often at well below market value—hundreds of vacant homes and rehabilitated them for moderate-income families, including some acquisitions of R.E.O. properties from lenders.

In Washington, D.C., CityFirst Enterprises, a community development financial institution, is planning to use New Markets Tax Credits for a project that involves the purchase and rehabilitation of foreclosed homes that wil1 then be sold to moderate-income families (Living Cities 2008). CityFirst will provide a silent second mortgage that will involve owners sharing any equity appreciation with CityFirst, which in turn will roll over the subsidy for future buyers in order to preserve affordability.

One key barrier that faces many local communities in their recovery efforts is the difficulty in accessing accurate, comprehensive, and timely data on foreclosed properties.[20] This includes not only the location of real estate owned (REO) properties at a particular point in time but also the identity and contact information for those with ownership or control of the properties and information on their physical condition. Very few local governments have a good handle on even the number and locations of vacant properties in their jurisdiction. Property records systems are often not well designed to provide this information, and even if they do contain such data, local county recorders or clerks often do not maintain it in a readily accessible form. In fact, property records are often compiled by private data vendors who then process and repackage the data in expensive databases that planners and community developers cannot easily afford. Therefore, more timely, robust, and accessible local real estate data systems are a key need to improve local efforts at reclaiming and reusing vacant buildings.

The availability of quality and timely data—and related analyses—on foreclosures, vacant properties, and associated issues varies a great deal across cities and states. Some of this variation stems from state- or county-level laws or property records systems. However, there are also significant differences in local capacity to compile, present, and analyze relevant data. In some cities, policy research groups and university research centers have developed significant expertise and storehouses of real estate data on foreclosures and related matters. The data and analysis produced by such groups has often become a key resource for government and nonprofit actors in responding to foreclosure and vacant property problems.

In Cleveland, NEOCANDO, a neighborhood indicators project based at Case Western University, has compiled a substantial amount of data that can be used to track foreclosures, predict foreclosure hot spots, and track the fate of properties over the longer term. In Chicago, the

[20] For a discussion of approaches and challenges in using public data to analyze foreclosures see Newman (2008).

Woodstock Institute regularly tracks foreclosure data for the six-county metropolitan area, and its deep knowledge of real estate and mortgage-related issues allows it to spot key and emerging problems on an ongoing basis.

In Memphis, the Center for Community Building and Neighborhood Action at the University of Memphis has used data on foreclosures and original data generated from visual surveys to track the trajectory of properties in the city. It has also constructed an intervention-oriented typology of foreclosures to better understand the different paths to and causes of foreclosure at the neighborhood level. The center has also attempted to understand where these different types of foreclosures tend to cluster within the broader housing market.

In the property recovery arena, the key regional actors are likely to be community development organizations (especially larger ones with substantial real estate development track records) and local government and its affiliates (land banks, development authorities, etc.). Other parties that may play significant roles include regional planning or municipal associations, state government (especially via funding), banks and loan servicers, university-based and nonprofit research organizations, and cross-sectoral initiatives.

Household Recovery

The recovery of households following foreclosure has perhaps been the least discussed area of response to the foreclosure crisis in recent years. Because foreclosure results in forced relocation, and displaced families may not remain in the same local jurisdiction after foreclosure, this may blunt concerns by some local government regarding the families themselves. Household recovery can pertain to foreclosed borrowers but also to renters displaced by foreclosure.[21]

Both borrowers and renters may face difficulties in attempting to find new housing, to stay in the same neighborhood, or to find an apartment in their children's current school district. Foreclosure may force owners or tenants into homelessness, which can create significant social and economic challenges for adults and children. Unfortunately, renters may be viewed by some local officials

[21] It is important to recognize that 1-to-4 unit buildings constitute the majority (59 percent) of rental units in the U.S. and that many of these are owned by individuals with limited resources and so are susceptible to foreclosure (Joint Center for Housing Studies 2008). Approximately 30 percent of first-lien purchase loans to non-owner-occupied borrowers in 2006 were subprime loans, with the ratio reaching nearly 50 percent in lower-income, minority communities. In Chicago in 2007, there were over 4,800 foreclosures filed on 2-to-6 unit buildings, compared to approximately 8,900 filings on one-unit properties and condominiums (Woodstock Institute 2008). The 2-to-6 unit buildings represent many more than 4,800 households potentially displaced. Given that most of these units are renter-occupied, it is likely that renters displaced by foreclosures exceeded displaced owners in Chicago in 2007. In Massachusetts, 2-to-4 unit properties accounted for 30 percent of foreclosures on 1-to-4 unit buildings in recent years (Foote et al. 2008.) Again, given the larger number of units in these buildings, this suggests that in some places the number of renters affected by foreclosures may exceed the number of owners, albeit with different impacts on wealth and credit history.

as less desirable citizens than homeowners, so when they are evicted because of foreclosure, it may be more difficult to get policymakers to express serious concerns.

Foreclosure can put severe strains on local shelters and human service programs, as well as the families themselves. The New York Times' Neediest Cases Fund recognized these problems in early 2008 by devoting $1 million to a program that will provide either former owners or tenants in foreclosed properties up to $10,000 to pay for moving costs, the first month's rent and security deposit, and other emergency needs (Fernandez 2008). Another example of assistance in this arena is that contained in the settlement between Bank of America (in their role as acquirer of Countrywide Financial) and the attorneys general of 11 states, which includes $70 million in relocation assistance to foreclosed households (Morgenson 2008).

Families with children may need to find new schools—and may find it difficult to find decent rental housing in areas with good schools. School mobility, especially when occurring in the middle of an academic year, can have lasting negative impacts on school performance (Haveman and Wolfe 1994; Rumberger 2002).

One important cost that has received little attention, and that is difficult to quantify, is the damage that forced relocation can do to social networks and support systems. This may be particularly true for low- and moderate-income homeowners who often rely on family and friends in their existing neighborhood for basic needs and support, such as child care and sick care. A variety of research has explored the importance of social networks, social capital, and "strong ties" in the lives of lower-income households. For example, Dawkins (2006) found that, for lower-income families, neighborhood social ties are relatively more important in determining residential mobility than is the case for higher-income families. He also suggests that access to daycare, transportation, and recreation is a key reason for this.

Foreclosed borrowers may be essentially locked out of the homeownership market for several years and may face difficulties accessing quality rental housing. As homeowners are pushed into rental housing, this will put upward pressure on rents in the market. Also, some landlords rely heavily on credit scores or credit history to screen tenants. This may constrain the options of foreclosed families into a narrower, less desirable segment of the rental market.

Renters may be given little notice by foreclosing lenders. Even where state law provides significant notice protections, or even allows tenants to maintain their lease, there are anecdotal reports that foreclosing lenders misinform tenants by suggesting they have to vacate in very short order.

Some local governments and many rental housing advocates have made efforts to increase protections for renters in foreclosed properties. The City of Chicago worked with local advocates to help pass a state law requiring 120 days notice to evict tenants, and the City of Baltimore has taken similar steps. Advocates in Minnesota helped pass a law in 2007 that eliminates all eviction notices from tenants' rental records if they are evicted because of a foreclosure.

Another aspect of household recovery that has received little attention is the need to rebuild credit and financial health. Credit counseling and community development agencies can be key players here, as well as legal aid groups and tenant and fair housing advocates. Local and state government can also play a role here by supporting these organizations in household recovery efforts. However, many of these groups are currently overwhelmed as they focus on attempting to prevent additional foreclosures and have few resources and little time to address the ongoing needs of those who have already gone through foreclosure.

The use of credit histories has become more widespread and important in markets that affect the economic and social opportunities of individuals and households. Credit scores are frequently used by employers in evaluating job applicants, by landlords in assessing potential tenants, and by insurance companies in underwriting and pricing automobile insurance. The U.S. Fair Credit Reporting Act (FCRA) allows access to credit data for a wide variety of purposes. Any firm that delivers a good or service prior to receiving payment is effectively acting as a creditor under FCRA and is allowed to access credit reports and scores. Thus, firms providing electricity, water, gas, phone, or cable service frequently use credit bureau data. In 2002, TransUnion, one of the three large credit bureau firms, reported that banks and credit unions had been overtaken as the largest users of credit data in the Philadelphia region by nonbank entities such as hospitals, telecommunication firms, and utilities (Furletti 2002).

A substantial deterioration in an individual's credit history, such as that caused by a foreclosure, has the potential to create a substantial web of barriers to employment, quality housing, and basic and affordable goods and services. For example, an estimated 90 percent of auto insurers use credit data in underwriting new policies, although some states prohibit the use of credit data in underwriting and pricing auto insurance (Hartwig and Wilkinson 2003). As landlords have increasingly relied on credit histories, former homeowners who experienced a recent foreclosure and now need rental housing may be excluded from the full array of housing choices to which they might otherwise have access. Employers have also increasingly turned to credit data in screening job applicants. In 2003, the Society for Human Resource Management found that 35 percent of employers it surveyed were using credit data in screening applicants, up from 19 percent in 1996 (Evren 2004).

Nonprofit organizations, such as legal aid groups, tenant and homeless advocates, and fair housing organizations are the sorts of groups likely to be most concerned about the recovery of households and families from foreclosure. Local governments may be less sensitive to the plight of these households unless it is clear that these families remain in the jurisdiction after foreclosure. State or regional human service organizations may become more important actors here.

Conclusion

The goal of this paper was to lay out a broad description of different local responses to the foreclosure crisis. It is not intended to be exhaustive and does not address the effectiveness of particular approaches. Rather, given the large scale of the foreclosure problems facing so many communities, it is just one attempt to try to get a handle on the potential and actual near-term responses to surging foreclosures and the constraints faced by local government, nonprofits, and the civic community more generally as they plan and implement new and continuing responses.

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