



Testimony of Senior Vice President Geoff Smith to the Housing Committee of the Illinois House of Representatives on Ways to Increase Servicer Accountability

My name is Geoff Smith, and I am with the Woodstock Institute in Chicago. We are a non-profit applied research and policy organization that focuses on issues related to fair lending, wealth creation and preservation, and financial systems reform. One of Woodstock Institute's key program areas for the past 10+ years has been examining patterns of subprime lending and foreclosures in the Chicago region with a particular focus on understanding their impacts on lower-income communities and communities of color. Previous Woodstock Institute reports have:

- Identified patterns of targeted, high-risk subprime lending to communities of color regardless of the income-level of the community or individual borrower;
- Illustrated the strong relationship between concentrated subprime lending at the neighborhood level and high levels of subsequent foreclosure activity
- Quantified the impact that concentrated foreclosures have on communities in the form of decreased properties values for nearby homes and increased levels of violent crime

In our recent report *Left Behind: Troubled Foreclosed Properties and Servicer Accountability in Chicago*, we examined data on a segment of the universe of vacant properties in the City of Chicago and connected these data to another data set of properties where a foreclosure had been initiated in county court at some point between 2006 and the first half of 2010, but based on an analysis of foreclosure and property records had no clear outcome such as a completed foreclosure auction or subsequent property transfer.

We identified nearly 1,900 of these "red flag" properties in the City of Chicago. We called them red flag properties because of the fact that they are vacant and stuck at some point in the foreclosure process. To us this indicates a lack of effective ownership, oversight, and accountability for the maintenance, security, and possibly the outcomes of these properties, and this status raises concerns that these properties are in danger of falling into disrepair and having a significant negative impact on the community.

For those properties that have been in the foreclosure process for extended periods of time, we fear that servicers may be delaying the completion of the foreclosure in order to defer costs and accountability associated with taking ownership of a property at the end of the foreclosure process, or in the worst case we are concerned that servicers have chosen to walk away from a property, or charge it off and consider it a loss.

In November, the Government Accountability Office issued a report examining the prevalence of servicers walking away from the foreclosure process and abandoning properties. They found that nationally, while this is not a necessarily a common occurrence, the incidence of servicers walking away is much higher in many Midwestern cities and, within those cities, is particularly high in certain distressed communities.

Our report showed that red flag properties were much more disproportionately concentrated in Chicago's communities of color than foreclosures or vacant properties in general. Roughly 50 percent of properties with a foreclosure filed against them between 2006 and 1H 2010 were in communities 80% or greater African American. While 62 percent of the properties in our set of vacant buildings data were in highly African American communities, over 71 percent of the red flag properties in our analysis were found highly African American communities.

These findings raised concerns about the impact that red flag properties are having on the stability of communities that are already struggling with the foreclosure crisis and on the City which is often the entity left to respond to problems occurring at these properties and also the entity that bears the costs of securing and in many cases ultimately demolishing these properties.

Federal interventions to mitigate the impact of the foreclosure crisis on communities have had limited success. The Home Affordable Modification Program was designed to provide a framework and incentives for mortgage servicers to complete sustainable loan modifications that would keep borrowers in their homes and prevent the numbers of vacant properties we see growing throughout the city, region, and state. However, this program has been a disappointment and helped only a fraction of the homeowners it was initially intended to. The main reason for the program's lack of success is that participation is largely voluntary and there is no accountability for mortgage servicers who fail to make every effort to put homeowners in long-term, sustainable HAMP modifications.

Because of this lack of servicer accountability at the federal level, it is critical that state and local governments are able to use local levers to ensure that mortgage servicers are doing everything they can to help homeowners and are accountable for the outcomes of decisions that they make be it denying a loan modification, or failing to complete a foreclosure and creating red flag property.

One way the state do this is to pass legislation to amend the Home Rule Act to allow home rule municipalities to redefine "ownership" to include all parties with a financial interest in the property. This would allow municipalities to hold financial institutions that have filed a foreclosure on the vacant property, but have not yet acquired the title in a judicial foreclosure sale, accountable to register, maintain, and secure the property and abide by the vacant property ordinance. By shifting more of the costs to the servicer, the servicer may have more of an incentive to work with homeowners to find a solution.

Additionally, the state can increase resources for the Circuit Court of Cook County Mortgage Foreclosure Mediation Program. The Mediation Program brings distressed borrowers together with their loan servicers and, with the aid of a third-party mediator, housing counseling, and legal aid, tries to reach a mutually-beneficial solution. There is clearly high demand for the program—more than 20,000 homeowners called their hotline between June and November 2010. More resources, however, are needed to reach all the eligible homeowners who need help and to ensure that they get housing counseling.