Congressional Testimony of Ted Phillips, Esq. on August 2, 2019
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RE: "An Examination of the Housing Crisis in Michigan, 11 Years After the Recession",

History and Background

Thank you for this opportunity to testify today. My name is Ted Phillips and I am the Executive Director of the United Community Housing Coalition (UCHC), a nonprofit organization delivering comprehensive housing services to low income households in Detroit for more than 40 years. I have served in this capacity since 1986 with the exception of two years during the Archer Administration when I was the general manager for program, planning and budget for public housing at the Detroit Housing Commission. I have been a licensed attorney for 36 years.

At UCHC we provide a wide range of legal and social services focused on resolving various housing problems (primarily related to affordability and quality) for low income residents of Detroit. These services include legal to prevent evictions and improve rental housing quality, relocation assistance to provide for soft landings when displacement cannot be prevented, and organizing efforts to protect federally subsidized housing developments at risk of loss. We also operate large programs to protect and promote homeownership, annually preventing thousands of mortgage and tax foreclosures as well as land contract forfeitures. Until December 2018 when HUD eliminated the program, we also provided permanent housing placement services for homeless families in Detroit.

The foreclosure crisis nationally and in Detroit is well described in the July 30, 2019 memorandum prepared for this committee by the FSC Majority staff. In addition to the facts cited in that document, I would emphasize that the percentage of Black home-ownership dropped in Michigan more than any other state, down to 40% from just over half in 2000.[1] Much of that decline was in Detroit which until the turn of the millennium had some of the highest levels of Black homeownership in the country. In comparison, during the same period, White homeownership rates dropped only 3%. Detroit also endured one of the highest rates of subprime lending in the country. Currently, new conventional mortgage loans remains scarce. In 2017 there were only 994 mortgages provided in the entire city. This number represented an increase over the 736 mortgage loans in 2016.[2] Redlining continues unabated and other discriminatory lending practices remain a major problem. The Center for Investigative Reporting found that in the Detroit metropolitan area, Black applicants were nearly twice as likely to be denied a conventional home purchase loan as White applicants in 2016. [3] In less than a decade, the mortgage and tax foreclosure crisis has converted Detroit from a majority owner-occupied to majority renter-occupied city.

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[1] Christine MacDonald, Black home ownership plunges in Michigan, The Detroit News (July 10, 2015)

[2] *Id.*
[3] *Id.*

Blight caused by the foreclosure crisis destroyed whole neighborhoods in Detroit in a few years. A Detroit News report found that 56% of mortgage foreclosed homes were blighted or abandoned. Of those 36,400 homes, at least 13,000 were slated for demolition at a projected cost of $195 million. As property values dropped by 90% and assessments were not adjusted, a wave of tax foreclosures brought additional cascading numbers into the crisis. Compared to the size of the problem, federal relief efforts were miniscule or misdirected. Initially federal Hardest Hit program funds were limited to payments to banks to reinstate predatory mortgages, but most refused to accept the payments to stop foreclosures. Eventually the program was expanded to cover tax foreclosures and pay for demolitions caused by the foreclosures. The lending industry which had caused the problem was largely absent with respect to solutions. Instead it dumped thousands of REO properties on the market, at bargain basement prices, often to unscrupulous investors who repeated the process with predatory land contracts offered to former homeowners who could not qualify for mortgages as a result of their prior foreclosures.

Remedies and Model Interventions

Expanded use of Hardest Hit Funds is a viable solution that can help with federal approval to spend funds for low sheriff sale redemptions, predatory land contract buy-outs and repurchases of tax foreclosed homes, in addition to current uses. The continuation and expansion of the program is needed to effectively address foreclosure issues.

With respect to mortgage foreclosure prevention, lenders and servicers managing federally insured mortgages should be held accountable for their failure to provide significant forbearance relief to prevent foreclosure. Instead, it appears that the opposite occurred – since the lenders could recover full payment for a foreclosed mortgage, this provided an incentive to foreclose rather than forbear. They could recapture loaned funds quickly and repeat the process, leaving in the wake, a wreckage of vacant properties subject to blight, and homeless families with decimated credit, unable to purchase other homes. New rental housing for these foreclosure victims was often no more affordable and in substandard condition, and this further destabilized our neighborhoods.

Conventional mortgage lending is central to homeownership opportunities. Therefore this type of activity should be reported, measured by race and ethnicity, and more closely monitored in CRA and CFPB reports. Financial institutions with foreclosed inventory and federal property holdings at the VA and HUD should gift or otherwise make these properties available at steeply discounted prices, for minority homeownership programs aimed at redressing the lending discrimination and the foreclosure crisis.

Significant resources from the federal government and the banks are needed to pay for repairs to blighted foreclosed properties that can yet be saved, rendered habitable and made available to families who lost their homes as a result of the predatory lending and foreclosure practices of financial institutions. Funds for demolition and new construction are required for the properties that are beyond repair and impair neighborhood property values, as well as safety and rebuilding efforts. Local governments in urban communities have been saddled with the entire cost of addressing the mortgage foreclosure crisis which they did not create. A decade later, the enormous residue of the problem persists with few resources in credit starved communities, to remedy it.

After nearly 20 years of tax foreclosures under Michigan's amended foreclosure statute which accelerated the process, Detroit is intervening to utilize its statutory first right of refusal, in advance of the public auctions, to take homes and return them to homeowners who qualify for poverty exemptions or to tenant occupants of leased properties. In the past two years, this process has returned 600 properties to these occupants for the cost of the unpaid county taxes or less[4], retaining and promoting homeownership in the city. Our office is managing this program and this year we are on track to return properties to homeowner-occupants or create new homeowners among tenant occupants for another 500 homes. As a result, in this short period of time, our small tax foreclosure prevention program with 6 staff will have essentially provided or preserved more homeownership opportunities for families who lost their homes in tax foreclosure[5], than most of the mortgage lenders combined. To be fair, I should note that this has been with the help of many foundations, the City of Detroit and the Wayne County Treasurer's office. Two of those foundations have been the Quicken Community Loan Fund and the JP Morgan Chase Foundation. The total cost of our purchasing these homes will be a little over four million dollars ($4,000,000). However, if these families are to be truly provided with a fresh start, there needs to be a significant investment in additional home repair grants that are largely unavailable. In our program the current financial resources available to help families with repairs is limited to approximately 50 homes.

This successful program in Detroit needs to be replicated in other minority communities across Michigan with financial support from the federal and banking industry to re-purchase the homes.

Finally, as mentioned earlier, the mortgage foreclosure crisis generated a glut of properties in bank owned inventories that were dumped on the Detroit market in donations and sales to unscrupulous investors. The purchasers of these and tax foreclosed properties are restarting the churning property cycle in sales of these often substandard properties on high cost predatory land contracts or lease-to-own hybrid arrangements, which are largely unregulated. These methods for achieving homeownership must be carefully regulated to protect buyers from predatory terms, while at the same time permitting a pathway for homeownership for households otherwise barred from homeownership opportunities due to limited income, wrecked credit as a result of prior predatory mortgage foreclosures, or low cost housing that will not generate a sufficiently large price for a conventional loan[6]. The financial services industry must be pressed to generate smaller low cost mortgage loan products for lower priced homes in depressed housing markets. Transparency concerning housing conditions and repair needs (supported by inspections), true value (supported by assessments) and cost elements (taxes, insurance, price, interest, term, monthly and total cost, repairs and rate of accumulating of equity) as well as default remedies (court ordered forfeiture or foreclosure) are critical items to consider in the regulation of these purchase agreements. All hybrids (e.g., rent-to-own agreements) should be treated as purchases

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[4] One thousand dollars for poverty-exemption eligible former homeowners as a result of the settlement of an ACLU suit. For tenants occupying tax foreclosed homes, the prices generally range from $2,000 to $5,000 with a one-year term for repayments. Funding for the program was provided by a local foundation and the city which did not charge the taxes owed to it.

[5] This does not include the over 6,000 households successfully assisted in this period to prevent tax or mortgage foreclosure or land contract forfeitures, through a wide range of counseling and advocacy efforts.

[6] Many mortgage lenders insist on minimum loans of $50,000. A large percentage of the housing stock in Detroit will not generate that value. Smaller loans also provide for lower, more affordable payments for low income families. .

rather than rentals to prevent confusion and forfeiture of equity and repair investments in tenant eviction proceedings. Also, if these regulatory reforms are to be enforced, and foreclosures as well as evictions related to foreclosures prevented, additional funding for free legal resources is essential.

Concluding Recommendations:

1. Expand the Hardest Hit Funds program to provide for additional resources and uses for these funds to effectively address continuing foreclosures and problems caused by the crisis, including federal authorization to expend funds for tax and mortgage foreclosed property purchases, redemptions, and predatory land contract buyouts, as well as for repairs/demolitions.

2. For federally insured mortgages, hold financial institutions accountable to provide for significant forbearance relief to prevent foreclosures.

3. Recognizing that conventional mortgage lending is central to affordable homeownership opportunities, vigorously monitor these activities by race and ethnicity in CRA and CFPB reports, with significant consequences for failure to address poor performance.

4. Require lender to provide substantial commitments of resources to pay for repairs to blighted foreclosed properties that can be rendered habitable and made available to families who lost their homes as a result of predatory and discriminatory lending and foreclosure practices. Identify and commit federal sources that can also cover these costs.

5. Identify and commit significant resources from the federal government and lenders to cover demolition and new construction costs in urban areas devastated by the foreclosure crisis.

6. Require lenders to develop small low cost mortgage loan products for lower priced homes in depressed housing markets.

7. Regulate land contracts to

   a. Increase transparency concerning property conditions and repair needs as well as estimated costs of repairs (supported by independent inspections)

   b. Disclose true housing values (supported by independent assessments) and cost elements (including taxes insurance, interest, terms, price, repairs and methods by which equity is accumulated)

   c. Classify hybrids (e.g., rent to own agreements) as purchase rather than rentals to prevent confusion and forfeiture of equity and repair investments in tenant eviction proceedings.

   d. Render all hybrid agreements subject to court ordered forfeiture or foreclosures for defaults.