

Reports on Philadelphia Mortgage Foreclosure Diversion Program

The bursting of the housing bubble led to a massive spike in home foreclosures across the country, deepening the recession and slowing the economic recovery. A number of federal, state and local programs have been launched in an effort to help homeowners avoid foreclosure and remain in their homes. Most of the programs have been slow and ineffective when it comes to offering homeowners some relief.

Philadelphia's response to the problems of homeowners facing foreclosure came on April 16, 2008, when Common Pleas Court President Judge C. Darnell Jones and Trial Division Administrative Judge D. Webster Keogh issued an Order delaying Sheriff Sales (i.e., the official auction of collateral properties in satisfaction of mortgage debt) of owner occupied residential premises on the April and May 2008 Sheriff Sale list. That Order required a Conciliation Conference to be scheduled between owners and the lenders/servicers that are party to the action. Initially, the Philadelphia Residential Mortgage Foreclosure Diversion Program (Diversion Program) was set to expire on December 31, 2009 although by Order dated December 17, 2009, the Diversion Program was made a permanent fixture of the Court.

The Diversion Program mandates a face-to-face Conciliation Conference for all new foreclosure actions. During the conference, eligible homeowners (with counselors and/or legal representatives) meet with the lenders/servicers to explore alternatives to Sheriff Sale. Eligible homeowners are sent information about the Diversion Program, including the date of their Conciliation Conference, when they are served with the mortgage foreclosure complaint. Several non-profit agencies, funded by the City, conduct door-to-door outreach to homeowners; the purpose of that outreach is to educate homeowners about the Diversion Program and encourage them to participate in the process. Homeowners are instructed to first call the SaveYourHomePhilly Hotline, staffed by Philadelphia Legal Assistance, to

schedule an appointment for the homeowner to meet with a housing counselor to discuss workout options. (This effort is supported by both private philanthropy and the City of Philadelphia.) Homeowners are able to freely access housing counseling services as well as legal assistance from Community Legal Services, Inc., Philadelphia Legal Assistance or Philadelphia VIP (Volunteers for the Indigent Program). Once in Court, if the collective efforts of the homeowner (with their counselor or attorney) and the plaintiff do not progress, either party can access one of the Judges Pro Tem (JPT) to facilitate the process. JPTs are attorneys who perform this function on a pro bono basis.

Philadelphia's goals for the Diversion Program are to:

- Keep homeowners facing foreclosure in their homes;
- Preserve and protect neighborhoods from the ravages of foreclosed properties;
- Intervene early in the processing of foreclosure cases in order to achieve a measure of judicial efficiency; and
- As a case management tool, to transform a docket that is unique because of the over 90% pro se nature, and provide a support mechanism for homeowners so that they can have a substantive discussion with Plaintiff's counsel about resolution long before a case progresses to trial (that is, if a default judgment is not entered).

Along with those goals are an inherent set of questions, the answers to which allow us to understand progress toward those goals. These questions are:

1. What is the magnitude of the mortgage foreclosure problem in Philadelphia? What part of that problem is being addressed by the Diversion Program?
2. Once a case is deemed eligible (i.e., residential owner-occupied properties) for

this intervention, what results are achieved?

3. Does the Diversion Program facilitate the case processing efficiency of the Court?
4. Has the Diversion Program made a difference in how foreclosure cases progress from foreclosure filing to Sheriff Sale?
5. Assuming the result is a “saved home”, how sustainable is the resolution - and are there patterns (e.g., demographic, economic, spatial) reflecting that some homeowners are more likely to remain in their home than others?
6. Has the Diversion Program improved overall access to the judicial process for Philadelphia homeowners facing foreclosure? Are the outcomes equal?

With grants from the Open Society Institute and the William Penn Foundation, TRF answered this set of basic questions about the outcomes and impacts of the Diversion Program. After gathering Court Orders on nearly 16,000 cases handled by the Diversion Program from inception through March of 2011, conducting interviews with homeowners and “ground-truthing” our results with experts, we conclude the following:

1. What is the magnitude of the foreclosure problem in Philadelphia and what part of that problem will the Diversion Program address?

During the pendency of the program, there were in excess of 8,000 foreclosure filings per year and the Diversion Program addressed between 60% and 70% of that caseload in each year of its existence.

2. Once a case is deemed eligible, what results are achieved?

Approximately 70% of all eligible homeowners in foreclosure avail themselves of the Diversion Program (i.e., approximately 30% fail to appear). Of those who are eligible and participate, approximately 35% end up with an Agreement

between the plaintiff and the homeowner. Sheriff sales are ordered in approximately 16% of the cases and those are, more frequently, among the oldest cases at the time of entry into the Diversion Program.

3. Does the Diversion Program facilitate the case processing efficiency of the Court?

Evidence suggests that participants in the Diversion Program touch the court, on average, fewer than two times. The average (mean) case spends 54 days in the Diversion Program. Given what we know about the typical time for a case to move from foreclosure filing to final resolution – not counting when active litigation is involved – the average is well within the range of what was previously typical for residential foreclosure cases.

4. Has the Diversion Program made a difference in how foreclosure cases progress from foreclosure filing to Sheriff Sale?

Although this analysis is complex and the data are incomplete, it appears that the trajectory of a case from foreclosure filing to Sheriff Deed filing is substantially impacted. There is an inflection point in that trajectory that corresponds to the inception of the Diversion Program showing that for the year prior to the Diversion Program 27% of “eligible cases” ended up with Sheriff Deeds filed – meaning that 27% of homeowners were losing their homes. The inception of the Diversion Program immediately dropped that percentage to 14.5% after the first six months and then to 5.7% thereafter.

Confidence in this finding must be tempered somewhat by the fact that there were several changes in the housing market environment and business practice of the Court and Sheriff of Philadelphia that could produce a reduction. Yet, the temporal correspondence with the inception of the Diversion Program is suggestive that it - not just business practices - did have a positive impact on the likelihood that a homeowner in foreclosure would keep their home.

5. Assuming the result is a “saved home”, how sustainable is the resolution – and are there patterns (e.g., demographic, economic, spatial) reflecting that some homeowners are more likely to remain in their home than others?

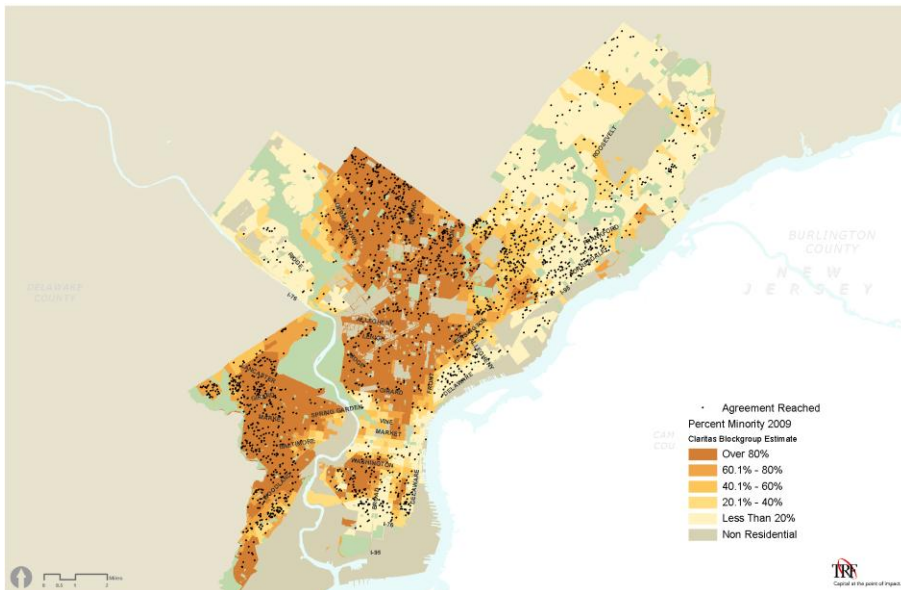
Using data representing the first year’s worth of Agreements – giving these Agreements time to “age” – we observe that 85% of those homeowners are still in their home more than 18 months later. Approximately 30% of all homeowners with Agreements have had subsequent foreclosure activity, but those have not yet forced people from their homes. Is the 85% remaining in the home unusual? Among those who did not avail themselves of the benefits of the Diversion Program (i.e., failed to appear), 50% of them are no longer in their homes.

6. Has the Diversion Program improved overall access to the judicial process for Philadelphia homeowners facing foreclosure? Are the outcomes equal?

Our best, albeit indirect, evidence is that it has improved access. Foreclosures in Philadelphia are clustered in lower income and minority areas; that spatial pattern has weakened somewhat in the last few years. Nevertheless, a spatial analysis of participation in the Diversion program reveals that aside from a small effect of the percent White not Hispanic in a Census tract (showing that areas with higher percentages White not Hispanic have slightly higher percentages failure to appear outcomes) there is no discernable pattern suggestive that lower income communities or communities of color are unable to access the system. Moreover, assuming homeowners participate, low income and

minority communities are achieving agreements at similar rates as higher income and majority communities. This suggests that the Diversion Program is offering its benefits to Philadelphia homeowners on an even-handed basis.

This report provides data that show that the Diversion Program has made progress in meeting its initial goals and has done so in an equitable manner.



Location of Agreements Reached through Diversion Program (inception through June, 2009) and Racial Composition of Area



NO PLACE LIKE HOME

PHILADELPHIA'S APPROACH
TO FORECLOSURE PREVENTION

NO PLACE LIKE HOME

Philadelphia's Approach to Foreclosure Prevention

Executive Summary	1
Philadelphia's Current Home Foreclosure-Prevention Process (graphic)	7
Philadelphia's Pre-2008 Home Foreclosure-Prevention Process (graphic)	9
Philadelphia's Foreclosure-Prevention Approach: How it Works	11
Eight Priority Foreclosure-Prevention Recommendations for Philadelphia	20
Approach Presents a Model for Other Cities	56
Conclusion	59
Glossary	Inside back cover

EXECUTIVE SUMMARY

Since 2008, cities and states across the nation have worked to create new laws and programs to address the mortgage-foreclosure crisis and to help homeowners to keep their homes. The two primary program types adopted by state and local governments are designed to serve two goals: (1) to facilitate mediation or negotiation between homeowners and lenders/servicers to reach mortgage loan-modification agreements; and (2) to provide homeowners with loans to help eliminate delinquency and/or to temporarily fund monthly mortgage payments. Philadelphia's foreclosure-prevention efforts utilize both types of programs: a local mediation program that mandates court-supervised negotiations between the parties and a state bridge-loan program that provides loans to households temporarily unable to pay their mortgages due to unemployment, sickness, or other reasons beyond their control. The city increased the positive impact of these programs by funding effective outreach, a paralegal-staffed telephone hotline, housing counselors, volunteer and legal services attorneys, and other important supports.

This 2011 study, conducted by Regional Housing Legal Services with funding from the William Penn Foundation, details how Philadelphia's foreclosure-prevention model has worked, how it can be replicated in other cities, and how it can be improved to better serve at-risk homeowners. In concert with this qualitative study based on interviews with over 60 stakeholders, The Reinvestment Fund (TRF), a national leader in the financing of neighborhood revitalization, has completed a quantitative study of one program explored in depth in this report, the Philadelphia Residential Mortgage Foreclosure Diversion Program (Diversion Program). Key findings of The Reinvestment Fund's 2011 study titled *Philadelphia Residential Mortgage Foreclosure Diversion Program: Initial Report of Findings* are incorporated within this report.

Philadelphia's leaders quickly crafted and implemented a foreclosure system utilizing existing resources and filling holes where needed.

In just seven weeks, stakeholders including the courts, city government, lenders'/servicers' attorneys, and city-funded nonprofits partnered to create the Diversion Program. The Diversion Program mandates face-to-face negotiations between the at-risk homeowner and the lender/servicer to determine whether modifications to mortgage loan terms can prevent foreclosure. In addition, Philadelphians had access to a state-run bridge-loan program, Homeowners' Emergency Mortgage

Assistance Program (HEMAP), founded in 1983 to help homeowners who can not pay their mortgage through no fault of their own. Pennsylvania Housing Finance Agency’s HEMAP program has a two-decade-long track record of preventing foreclosure. Two additional federal tools were added to Philadelphia’s arsenal in 2009 and 2011, although their impact on foreclosure outcomes is not fully known: Home Affordable Modification Program (HAMP) and Emergency Homeowners’ Loan Program (EHLP). HAMP, a federal loan-modification program, significantly impacted local negotiation standards and the housing counselors’ workload but does not appear to result in many final loan modifications, based upon interviews with housing counselors. EHLP was introduced in Pennsylvania in Spring 2011, with \$105 million available to loan to Pennsylvania homeowners with difficulty paying their mortgages. There is a September 30, 2011 deadline for all funds to be committed. As of July 15, 2011, \$8.8 million of this money has been committed for loans to 270 Philadelphia at-risk homeowners. EHLP loan commitments up to July 15, 2011 for all of Pennsylvania total \$28.6 million. Regional Housing Legal Services will continue to monitor EHLP’s impact.

Philadelphia Prevention Works
*Data on the Diversion Program from The Reinvestment Fund with
Analysis from Regional Housing Legal Services** (April 2008 to May 2011)

PARTICIPATION RATE: 70% of homeowners in foreclosure
(Approximately 11,200 out of 16,000 homeowners participated in the Diversion Court program.)

ESTIMATED AVERAGE COST TO HELP EACH HOUSEHOLD: \$750

HOUSEHOLDS WHO COMPLETE PROCESS AND REACH AGREEMENTS: 35%
(Approximately 3,900 homeowners; agreements may not allow them to keep their homes.)

**HOMEOWNERS REPRESENTED BY A LAWYER WHO MADE A FORMAL APPEARANCE
IN COURT: 4.5%** (50% private/50% legal services)

**HOMEOWNERS WHO REACHED AN AGREEMENT IN THE FIRST YEAR OF THE
PROGRAM AND ARE STILL IN THEIR HOMES IN 2011: 85%**
(Approximately 850 out of 1,000 homeowners; 30% have subsequent foreclosure filings.)

HOMES SOLD AT SHERIFF’S SALE: 16% of households who participated in the Diversion
Program (approximately 1,825 homeowners)

ESTIMATED AVERAGE COST TO SAVE A HOME: \$3,310

**RHLS analysis, based upon data from The Reinvestment Fund, is discussed on pages 13 to 15 and 52 to 55.*

Philadelphia Prevention Works

Data from the Pennsylvania HEMAP Program *(April 2008 to July 2010)*

NUMBER OF PHILADELPHIANS WHO APPLIED FOR HEMAP: 4,756

PHILADELPHIA APPLICATIONS APPROVED FOR HEMAP: 1,025

APPROVAL RATE: 22%

PHILADELPHIA HEMAP LOANS CLOSED: 623

AVERAGE COST TO HELP EACH HOUSEHOLD STATEWIDE: \$1,600

LOANS REPAYED STATEWIDE: 85%

HEMAP RECIPIENTS WHO LOSE THEIR HOMES STATEWIDE: <15%

AVERAGE LOAN SIZE STATEWIDE: \$11,000

IMPACT ON STATE CREDIT RATING: POSITIVE *(Moody's, an independent credit-rating agency, found that it strengthened PHFA's loan portfolio and bond program.)*

Philadelphia provided foreclosure-prevention services to at least 11,200 homeowners in its first three years. The Diversion Program's 70% participation rate was achieved through extensive outreach that included targeted door-knocking at homes of delinquent homeowners, a telephone hotline, public-service announcements, and mandatory negotiations. Compare the 70% participation rate, for instance, with a 30% rate for the opt-in mediation foreclosure-prevention program in Cleveland (Cuyahoga County, Ohio). Thirty-five percent of those who completed the Diversion Program obtained an agreement with the lender/servicer. There is limited data on the nature of the agreements, but the majority of the early agreements appear to have allowed the owners to remain in their homes because 85% of homeowners who reached an agreement in the first year are still in their homes in 2011, according to The Reinvestment Fund's study. In addition, 623 Philadelphia homeowners received HEMAP loans during this period. We do not know how many of these homeowners also participated in the Diversion Program. Approximately 80% received a one-time payment to eliminate their delinquency, while 20% received ongoing payments for up to three years to make their mortgage payments while they recovered financially. Data on HEMAP default rates for Philadelphia during this period are not available, but default rates over the 18-year life of the HEMAP program average 15%. While 16% of total at-risk homeowners and 2.1% of homeowners whose foreclosure suits were filed after April 2008 lost their homes to sheriff's sale, the majority have not resolved their foreclosures and continue to participate in one or more of the available programs.