

***Testimony of Patricia A. Kidd  
Executive Director  
Fair Housing Resource Center, Inc.  
Before the  
Subcommittee on Housing and Community Opportunity  
to the  
Committee on Financial Services***

***June 16, 2008  
Cleveland, Ohio***

My name is Patricia Kidd, and I am the Executive Director for the Fair Housing Resource Center, Inc. and I would like to thank you for the opportunity to provide information to the Committee today regarding the local efforts of Lake County Ohio to address the Foreclosure Crisis in Ohio.

I have served as The Fair Housing Resource Center, Inc. (FHRC) Executive Director and as a civil rights attorney for the past 9 years. The Fair Housing Resource Center, Inc. is a 501(c) (3) organization located in Lake County, Ohio. FHRC has one office and operates in the county seat of Painesville, Ohio. The mission of Fair Housing Resource Center is to promote equal housing opportunities for all persons and to advocate for fair housing and diversity in Lake County and surrounding communities through the education and involvement of the public, the governments, and the business community.

FHRC has operated as a HUD-approved Housing Counseling agency since August 2002, and has established positive working relationships with both the private and

public sector of the County and surrounding areas. Fair Housing Resource Center, Inc. provides one-on-one counseling for individuals who need assistance in the following areas: Landlord/Tenant Rights, Fair Housing, Loss Mitigation / Foreclosure Prevention, Homeownership, and Predatory Lending. The work plans created by the Fair Housing Resource Center, Inc., support individuals in becoming self-sufficient and ensures that all persons are provided safe, decent and affordable housing.

### **Service Area**

FHRC serves Lake County which is comprised of 18 incorporated municipalities (either cities or villages) and 5 unincorporated townships for a total of 23 communities serving 227,000 residents. As you are aware, the foreclosure crisis in the nation has continued to grow to epidemic proportions. National leaders down to local community groups are being made aware of this crisis. However, awareness alone will not address the problem; awareness with action will. According to the Mortgage Bankers Association (MBA), Ohio has the highest foreclosure rates of all states in the nation; has the second highest percentage of loans in the serious delinquency category, right behind Mississippi.<sup>1</sup> Last year, there was one foreclosure filing for every 71 Ohio households.<sup>2</sup> Within Ohio itself, northeastern counties such as Lake and Ashtabula have a high incidence of foreclosure rates. Statewide, the number of foreclosures rose 34 percent in one year, to a high in 2004 of 59,007, according to the report.”<sup>3</sup> Then, those same rates

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<sup>1</sup> *Dimensions of Ohio's Foreclosure Crisis and the Prominent Role Subprime Lending Plays*, Coalition on Homelessness and Housing in Ohio COHHIO, March 2007. [http://www.cohhio.org/info\\_factsheets.php](http://www.cohhio.org/info_factsheets.php).

<sup>2</sup> *Foreclosure Growth in Ohio 2006*, Policy Matters Ohio, July 2006.

<sup>3</sup> News Herald article March 23, 2006 “Ohio's Foreclosures High – Easy Credit can open door to trouble for homeowners”, Diane Snyder

rose another 23% in 2006.<sup>4</sup> Lake County has reported that the foreclosure rates in the area have more than tripled over the last decade. During 2006, Lake County had 1,114 foreclosure filings which was an increase of 24% over 2005 rates.<sup>5</sup> According to an article recently published in The News Herald on November 19, 2007, 835 homes in Lake County have been placed in sheriff sales this year,<sup>6</sup> compared to the 1,534 homes that faced foreclosure proceedings in 2006 alone.

The demographic profile of this stressed community directs target market outreach initiatives to the following specific populations:

- 11,655 Female-Headed Households (10.0%), of whom more than half, (7,362) have minor children.
- Black household income of \$30,642 is 70% compared to the County household income of \$42,185.
- There are 58,772 non-institutionalized disabled residents.
- Over 75% of the individuals assisted by FHRC have been either of low income and /or female head-of-households with a majority of those individuals are disabled.
- The total senior population of individuals 65 and over amounts to approximately 14% of the total county population.
- The total number of new residential construction units are down more than 10% from 2004 and cost per unit has decreased approximately \$20,000 for the past two years.
- The median gross rents average \$623.00 according to the ODOD OSR County profiles, however in actuality the foreclosure crisis is driving up market rents due to an increase in demand for rental property.

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<sup>4</sup> *Dimensions of Ohio's Foreclosure Crisis and the Prominent Role Subprime Lending Plays*, Coalition on Homelessness and Housing in Ohio COHHIO, March 2007. [http://www.cohhio.org/info\\_factsheets.php](http://www.cohhio.org/info_factsheets.php)

<sup>5</sup> Id.

<sup>6</sup> The News Herald, *Lake County has busy year for sheriff's sales*, David W. Jones, Nov. 19, 2007.

In sum, the foreclosure crisis has severely impacted the Lake County area in ways similar to other communities throughout the state:

- Housing values have substantially decreased over the last year and continue on a downward spiral;
- Home sales market has slowed to a small crawl specifically for houses over 2,500 square feet;
- New home construction has substantially slowed which in turn means loss of employment;
- Bankruptcy filings in Lake County has doubled this year compared to the previous year;
- The Lake County Treasurer's office has seen more individuals requesting information regarding the County's Escrow Program for property taxes ;
- The Treasurer's office has also seen a larger of number of individuals complaining that their taxes were never escrowed in their mortgage when they were told the taxes would be escrowed;
- The Lake County Auditor's office has daily inquiries from area homeowners seeking information regarding the revaluation program in an attempt to lower their property taxes; and
- The Lake County Sherriff's office claims crime rates in the area are increasing. They claim vacant houses invites vandalism and are seeing a higher level of homeless squatting in vacant homes.

## **Counseling Activites, Experience and Programs.**

### **Housing Counseling Experience**

FHRC has been a certified HUD Housing Counseling agency since August of 2002 and has provided various types of housing counseling and education services to individuals on a one-on-one basis, including foreclosure prevention as listed below:

## **Foreclosure Prevention Program**

FHRC believes one-on-one counseling is the most effective form of counseling for individuals. However, loss mitigation counseling on a one-on-one basis is an extremely time consuming process. On average, to provide counseling assistance to one individual from beginning to end through the loss mitigation process, takes approximately 20 hours of an experienced housing counselor's time. This time constraint far exceeds our normal HUD funded counseling time of 2.0 hours per person.

FHRC's counseling process begins upon the initial intake. All applicants are required to complete a detailed counseling application which includes questions regarding an applicant's annual income, their mortgage company, the type of mortgage loan, how far they are delinquent, reason for delinquency, and what alternatives they are seeking. The income listed will include monies from wages and salaries, benefits and pensions, public assistance, and other income. This information assists the counselor to evaluate loss mitigation options.

FHRC counselors require the clients to execute a "Lender Disclosure Form" which will allow the counselor to talk directly to the lender. FHRC assists clients with mortgage workouts, loan modifications, forbearance plans, and repayment plans. FHRC also educates homeowners with refinance options, including the many recovery programs which the individual may be eligible for.

There are some instances in which a borrower is unable to retain their home and foreclosure is evitable. In these cases, quick action is needed to help reduce the financial hardship on the borrower. In this instance, after reviewing the financial situation it may be best to leave the home. FHRC will educate consumers of their option to conduct

either a full sale or a short sale on the home if no other feasible option is available. FHRC will network the clients with area realtors experienced with these types of transactions. Also, FHRC will educate the client about the option of providing a Died in Lieu of Foreclosure option. While FHRC has no relationship with mortgage servicing agencies, FHRC has past experience with mortgage workouts and have been quite successful with these efforts.

FHRC does receive funding on a local level from Lake County HOME Program funds for a program FHRC created titled ERMA. ERMA (the Emergency Housing Assistance Program) was created to help assist income eligible households' who suffered an inability to pay for housing related costs arising from an unexpected crisis which could cause a potential foreclosure. Through this program, the County provided financial assistance on behalf of the eligible households in the form of a grant over a period of up to two (2) consecutive months to providers of such services as mortgage payments up to a \$2,000.00 limit. FHRC has received three rounds of funding to date, two of which had a combined total of \$120,000.00 with a third award of \$60,000 for FY 2007. On April 1, 2008, the County decided to increase the limit of funding from \$2,000 per household to \$3,000 per household to assist individuals with higher monthly mortgage payments. The problem with this program is that FHRC received only nominal funding to help defray the administrative costs of this program. The ERMA program seriously taxed the housing counselor's time and the administrative costs created a financial burden to the agency. Thankfully, Fair Housing Resource Center recently received funding as a subcontractor for the Ohio Housing Finance Agency on the National Foreclosure Mitigation Counseling Grant (NFMC).

The NFMC grant will assist the agency with additional financial resources to help ease the financial costs and allow Fair Housing Resource Center to hire additional staff, whose main focus will be on overseeing the ERMA program, providing loss mitigation counseling to area homeowners, providing direct assistance to the Executive Director of FHRC, and the Commissioners in formulating the task force and marketing strategies regarding our foreclosure prevention programs. Funding has also had a significant impact on FHRC marketing and outreach strategies, allowing the agency to reach out to individuals encouraging them to utilize our services.

However, as stated above, the foreclosure prevention counseling FHRC provides is an extremely time consuming process and the numbers of individuals seeking our assistance are increasing monthly. As stated above, the foreclosure rates in Lake County have more than tripled over the last decade. During 2006, Lake County had 1,114 foreclosure filings which was an increase of 24% over 2005 rates.<sup>7</sup> According to an article recently published in The News Herald on November 19, 2007, 835 homes in Lake County have been placed in sheriff sales this year,<sup>8</sup> compared to the 1,534 homes that faced foreclosure proceedings in 2006 alone.

In FY 2006, FHRC received two-hundred and forty (240) phone calls regarding foreclosure and were able to counsel these individuals through the loss mitigation program, which resulted in one-hundred (100) individuals preserving their homes. FHRC anticipates the numbers to increase as the foreclosure crisis accelerates. Nearly \$1.5 trillion of adjustable rate mortgages (ARMS) will be eligible to reset during 2007 and

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<sup>7</sup> Id.

<sup>8</sup> The News Herald, *Lake County has busy year for sheriff's sales*, David W. Jones, Nov. 19, 2007.

between \$500 billion to \$800 billion will actually reset with new interest rates.<sup>9</sup> The incidence of ARMS resetting will have a serious impact on Lake County residents. Without additional funding to assist this increase in call volume and housing counseling staff time assisting individuals through the loss mitigation progress, FHRC believes many individuals counseling needs will go without assistance.

### **Marketing / Outreach**

FHRC has made steps towards foreclosure prevention on a local level by the implementation of the ERMA program, the Lake County Foreclosure Prevention Task Force, and our loss mitigation counseling program. The additional marketing efforts that have been implemented include: billboard advertising, additional transportation advertising, quarterly publications of the foreclosure rates in Lake County, quarterly publications from the Lake County Foreclosure Prevention Task Force, surveying the residents of our service area to gain a better understanding of what needs to be changed, direct marketing to individuals in ARMS informing them of the many opportunities and programs for refinancing options, and television and radio campaigns.

### **Obstacles and Challenges**

In my opinion, the number one obstacle that we face when assisting a homeowner with loss prevention counseling is the lack of customer service by the lenders. Numerous staff hours are wasted trying to reach an individual on the phone who has the ability to make decisions on behalf of the lending institution. Each phone call is met by a different individual, thus lacking in clear and consistent communication and follow through.

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<sup>9</sup> *Foreclosure Prevention: Improving Contact with Borrowers*, U.S. Department of Treasury, Community Affairs Department, June 2007.

Most lenders withhold direct numbers, last names, and extensions for contact purposes, which prohibit a return phone call to the same individual. Housing Counseling agencies should be provided a direct phone number to the loss mitigation/hardship department and assigned a particular individual to speak with to enhance consistent and effective communication. In order to clearly understand the obstacles and time constraints when seeking a resolution for a client, please see attached Exhibit "A" case summary.

Another obstacle Fair Housing Resource Center endures is the lack of communication between the lending institution and their attorneys who are handling the foreclosure litigation. Fair Housing Resource Center has direct experience on numerous occasions where the lender has entered into a repayment plan or loan modification with a borrower and after the documents are signed, a foreclosure complaint is then filed with Lake County Court of Common Pleas due to the lack of communication between the lender and their counsel. This situation drains valuable housing counselor staff time for our office as it takes many days/weeks to get a complaint formally dismissed.

Lenders are entering into repayment plans and loan modification agreements which require the borrower to waive any and all rights to the loan. For example, some of the contracts state the following:

"By executing this modification, you forever irrevocable waive and relinquish any claims, actions, or causes of action, statute of limitations, or other defenses, counterclaims, or setoffs of any kind which exist as of the date of this modification, whether known or unknown which you may now or hereafter assert in connection with the making, closing administration collection or the enforcement by (lender) of the loan documents, this modification or any other related agreements."

"By executing this modification, your irrevocably waive all rights to a trial by jury in any action, proceeding or counterclaim arising out of or relating to this modification and any related agreements or documents or transactions contemplate in this modification."

In sum, Borrowers who are facing losing their home are put into a corner – foreclosure or waive their rights. Many of these agreements have language similar to this noted above, where borrowers feel they are forced to agree to.

Lastly, homeowners create their own obstacles and challenges as well. Many homeowners are not forthcoming with information or are so consumed with shame they do not seek the services of a counseling agency to assist them with this process. Local education and outreach efforts have targeted homeowners overwrought with shame to encourage them to contact our office to help them prevent foreclosure. However statistically speaking, Fair Housing Resource Center is only assisting approximately 10% of the individuals facing a looming foreclosure.

### **Preventing Foreclosure**

There is no one cure to this problem but rather a series of events that may help this crisis get better, including:

- Regulation on the lenders requiring mandatory loss mitigation efforts prior to filing a foreclosure complaint;
- Reform of Ohio Domestic Relation Court rules providing for mandatory protections to the marital home during the divorce process;
- Mandatory court ordered mediation within 30 days of filing a complaint for foreclosure;
- Incentives for lenders who offer loan deferments for individuals who are delinquent due to a temporary crisis;
- Tougher regulation on Equity Recovery Programs and other scam operations that charge high fees for foreclosure relief and dupe homeowners into executing a quit claim deed for their property;
- Increased education to homeowners encouraging them to seek foreclosure prevention counseling immediately when they are 30 days delinquent on their loan;

- Mandatory housing counseling for all borrowers prior to purchasing or refinancing a home; and
- Incentives for State governments who amend legislation dealing with renter's rights to prevent price gouging in rents and unclear or unconscionable Lease/Option agreements.

# Case Summary

## EXHIBIT A

Diane is a single, 45 year old woman who lives modestly. Diane began suffering financial hardships in December of 2005 when the company she worked for went out of business. In Feb. 2006, she ended up taking a job that paid less money an hour than her previous one. Diane supplemented this income with a part time job in retail. To make the mortgage and bill payments, Diane resorted to using credit cards and borrowing money from family members. In November of that same year, Diane got a better job. She was making more money and was doing fine, until Feb. 2007 when she was let go due to the company downsizing.

Since that time, Diane has applied for over 100 jobs and was either over- qualified, under- qualified, or just not the right person for the job. Diane took another part time job in June of 2007 while looking for a full time job. In the meantime, Diane kept using her charge cards to pay household debts, and borrowing money from family members to stay afloat. Fearful of going even further in debt, Diane then shredded her credit cards.

In October 2007, Diane got a full time job, still making less than the original job. Since that time, Diane has supplemented her income with 2 additional part time jobs, just to make ends meet. Diane has always made her mortgage payments, maybe not always precisely on time, but she has made one every month. Her account was overrun by late fees and she was always trying to play catch up. Diane contacted our office on 2/5/08

requesting assistance with her loan. Diane was current on her loan, but the monthly payments were creating such a hardship for her that she felt she was going to default and lose her home. FHRC attempted to get Diane's loan restructured to prevent the looming foreclosure. Below is an actual timeline documenting our loss mitigation efforts.

### **Diane – Loss Mitigation Timeline – National City Bank**

#### February 5, 2008

- Diane contacted our office for assistance
- Diane came to office to complete an application for financial assistance program

#### February 11, 2008

- Finished processing client file
- Contacted NCB for number to fax release of information form
- Forwarded completed file to housing counselor

#### February 12, 2008

- Counselor reviewed file:
  - Original payment 908.86. Amount due equals \$1,225.84 with the difference being late fees and penalties.
  - 1<sup>st</sup> phone call to NCB requesting waiver of late fees. Answer – they are not sure, may attempt to put a request in writing. NCB will send out a hardship packet for client to complete.
  - Submitted a written request for late fees to be waived (faxed) to Default Support.

#### February 13, 2008

- Phone call to Diane – left a message regarding above

#### February 14, 2008

- Phone call to Diane:
  - When will you have Feb. house payment? – Late February
  - If ERMA assists with Feb. payment, will you have March payment? – Yes
- Action plan developed: Goals
  - Submit payment to get late fees waived
  - Lower payment (see if qualify for OFHA program)
  - See if she qualifies for county Loan Recovery program
  - Call Lender NCB see if they can modify loan
- Phoned NCB for more info on state OFHA program

- NCB will pull refinance sheet and call back
- NCB phoned – Diane owes \$102,253.00 on home at an interest rate of 6.375. The State OFHA program interest rate is higher at 7.5% - utilizing that program will result in an increase in her monthly payment, not a decrease. NCB will run the numbers to see if they can refinance her at a lower rate.
- NCB phoned – refinancing with fees and costs will result in her payment being higher. Advised for Diane to complete hardship package for other options and to contact loss mitigation
  - Phoned loss mitigation – was advised to fill out hardship packet but not to fill it out until after Feb. 29, because she has to be 30 days behind before they can help.
  - NCB stated that they may be able to restructure loan after receiving hardship packet.
  - Can download packet and submit on-line

#### February 15, 2008

- Phoned Diane and explained above conversations
- Diane agreed to hold off and submit hardship package on March 1, 2008.

#### February 20, 2008

- Letter from NCB dated 2/14/08 to Diane requesting documentation to be considered for a relief option.

#### February 21, 2008

- Diane came into FHRC office to fill out the hardship package that will be submitted on March 1, 2008.

#### March 3, 2008

- Could not log Diane into NCB – Diane will need to reset password

#### March 6, 2008

- Diane came in, set up online Hardship Packet Account uploaded financial online took 1- ½ hrs to finish because of NCB website issues.
- Completed the online Hardship Packet
- Received status of Packet submission (submission accepted – 12:40pm)
- (Dated) Letter from NCB outlining the process for submitting financial documentation for review to be considered for any program option.

#### March 10, 2008

- Letter from NCB; may be able to qualify for a streamlined loan modification.

#### March 17, 2008

- (dated for March 12, 2008) Received Letter from NCB: repayment agreement – offered payments of \$1,009.84 until September 2009 – this is a 100 dollar increase in her payments, not a decrease like we were asking.

#### March 18, 2008

- Phoned NCB to discuss payment agreement. Was told that we needed a loan processor to look at agreement, someone will get back to us.

#### March 22, 2008

- NCB stated- at this time they can only offer the client a repayment plan with a payment of \$100 more a month than her usual payment. She cannot qualify for a loan modification because she is not more than 90 days late on her mortgage.
- NCB recommended that Diane wait, do nothing and resubmit another workout package on April 1, 2008 along with another hardship letter requesting a loan modification. NCB stated – after paperwork is submitted, request to speak directly to a loan processor to expedite the file. I advised NCB that I do not feel comfortable advising my client to not pay their mortgage.

#### March 23, 2008

- Emailed Federal Grants Administrator requesting permission to deviate from standard ERMA protocol and reinstate her loan if NCB drops the ball.
- Receive written response from Federal Grants Administrator, we could offer to help pay her mortgage until April 1, 2008.

#### March 27, 2008

- Called Diane and recapped NCB phone call and county request to her. Diane was clearly informed that she has 1 of 3 options:
  1. Pay all of her delinquency up to April 1, 2008 and let her original loan amount stay where it is;
  2. Accept the repayment plan at \$1109.00 a month until 9/15/09 (100 more than her usual payment); or
  3. Not pay anything right now and request a loan modification after April 1, 2008.
- Diane informed us that she wanted some time to think it over, and also informed us that she received a new job.

#### March 28, 2008

- Email from Diane – questioning the lack of cooperation by NCB
- Patricia forwards the response from the county received addressing the increase in funding to assist her with her mortgage payment.

#### March 31, 2008

- Diane came in to FHRC office to discuss loan options.

- Diane has chosen to upload info on April 1, 2008, holding off to try to obtain loan modification.

#### April 1, 2008

- Downloaded application and uploaded another hardship assistance packet. (Took 1.5 hrs to process and upload packet).

#### April 3, 2008

- Spoke with NCB – no foreclosure proceeding will start until at least after April 15, 2008 – due to the first day of the repayment plan. NCB wants 24-48 hours to review new packet; call back in a couple of days
- Confirmation received of submission of Online Hardship Application

#### April 11, 2008

- Phone National City Management to check on status of application; account still under review. Asked NCB to note the account that we have phoned to check on the status
- Phoned Diane – gave update on her account

#### April 14, 2008

- Email to Diane; request for her to share her story with the Coalition on Housing & Supportive Services of Lake County – including consent to share her story on camera for their annual luncheon and conversation with Legislators.

#### April 16, 2008

- Phone call to NCB; no word yet, follow-up next week

#### April 24, 2008

- (dated) Letter from NCB; another repayment plan offered – payments of \$1,027.00 until April 2010
- Phoned NCB:
  - Offered 2<sup>nd</sup> repayment plan
  - Told doesn't qualify for a loan mod because income is too low
  - Said loan mod would be \$840.00 but "their investor" does not feel she has enough income to support that high of a loan
  - Patricia explained how the loan amounts have gone so far:
  - Original Payment was \$908, Repayment #1-\$1009.84, Repayment #2-\$1057. We stated that this is not an option, the payment is getting higher and not lower. Demanded to speak with someone

who has the authority to make a decision rather than “read the screen”

- Was transferred to Brandon Gordon; left message on his voicemail
- Phoned Diane; gave update on her account

#### April 26, 2008

- Phone call to Brandon Gordon; message left

#### April 29, 2008

- Phone call from Diane Fabis requesting update message left

#### May 2, 2008

- Diane came into the office; we talked, she cried, left upset

#### May 5, 2008

- Phone call to Brandon Gordon, AGAIN; left mean message on voicemail

#### May 6, 2008

- Spoke to Brandon at NCB . Told NCB the Loan Recovery Program will help pay delinquencies – stressed importance of working quickly with the loan modification. Brandon requested another copy of the latest hardship packet faxed to their office
- Faxed hardship packet to NCB

#### May 13, 2008

- Called Brandon – He said still under review, should know something in a couple of days

#### May 14, 2008

- Email from Diane; asking for an update on the status and apologizing for her outburst
- Response to Diane’s email; no need to apologize, completely understand. Let her know that Brandon Gordon said her “hail mary” attempt is still under review and should have an answer in a couple of days. Will follow up on Friday.

#### May 20, 2008

- Left message for Brandon to check progress

#### May 22, 2008

- NCB refuses to do a loan modification at this time – credit report and financials show that Diane does not make enough money – if Diane made more money she wouldn’t need loan modification.

- E-mailed Diane NCB response – Told Diane that the Loan Recovery Program would pay her delinquencies and that the check would be expedited out as soon as possible.

May 23, 2008

- Sent letter and check via express mail to NCB to get Diane current again.

May 29, 2008

- Housing Coalition luncheon video tape of Diane's story was aired.

June 03, 2008

- Diane sent a letter via e-mail directly to the CEO of NCB describing her difficulties in dealing with NCB.

June 11, 2008

- Received phone call from NCB offering her a loan modification in the amount of \$737.00 lowered her interest rate down to 5% interest and extended the length of the loan. This modification was in the range of our original request in February.

### **Summary**

One loan modification for Diane took four months to process and complete. Our office communicated by telephone and email on forty-three separate occasions. We invested so many hours on Diane's case that we eventually lost count. The result: Foreclosure prevention, the key element that keeps our office dedicated and working hard during this crisis.