

***AECF National Dialogue to
Address the Disparate Impact of Foreclosure on Communities of Color***

**Advocacy Agenda
(September 2011)**

Overview:

The Annie E. Casey Foundation has facilitated a national dialogue to address the disparate impact of foreclosure on communities of color (hereafter “national dialogue”) over the past year. Participants include more than 140 advocates, intermediaries, funders and other stakeholders, representing more than 90 organizations from across the country. These participants have worked together to reach agreement about common solutions to the foreclosure crisis in the areas of advocacy, communications, and research and practical solutions.

This document summarizes key advocacy priorities emerging from the national dialogue. It is the product of a year-long process of research, discussion and consensus-building among a subset of the national dialogue participants, known as the advocacy work group, reviewed and refined by the full group of national dialogue participants.¹ (See Appendix A for a full list of advocacy work group members).

The strategies, described below, have been divided into five categories:

- Safer routes to homeownership;
- Foreclosure prevention and mitigation;
- Recovery by renters and homeowners;
- Stabilization of communities affected by foreclosure; and
- Cross-cutting priorities.

These categories are further divided into near-term and longer-term strategies to achieve the desired outcome of reducing foreclosures and their negative effects in communities of color.² This document focuses on federal priorities, but the advocacy work group is also exploring state and local efforts that could inform federal policy and programs.³ Furthermore, work group members recognize the importance of connecting advocacy efforts at the local, state and federal levels. Strengthening these connections will be part of the ongoing discussion of the AECF national dialogue.⁴

¹ This document was drafted by Heather McCulloch of Asset Building Strategies, consultant to the Annie E. Casey Foundation, with guidance from members of the full advocacy work group (see Appendix A) and a subcommittee of members including: Maya Brennan/Center for Housing Policy, Lisa Donner/Americans for Financial Reform, Tim Lilienthal/New Bottom Line Campaign and PICO National Network, Sham Manglik/National Low Income Housing Coalition, Noel Poyo/National Association of Latino Community Asset Builders, and Jeremy Rosen/National Center on Homelessness and Poverty.

² “Near-term” describes areas of policy/advocacy that work group members agree should be priorities during the next twelve months (fall 2011-fall 2012). “Longer-term” refers to priorities that are not currently politically viable but are of high importance to work group members, as well as policies underway at the state and local levels that might be taken to scale through federal incentives or replication.

³ The Center for Housing Policy recently completed a related document, “State and Local Policies for Addressing the Disparate Impacts of Foreclosures on Communities of Color,” prepared for the Annie E. Casey Foundation by Clare Duncan, Laura Williams, and Maya Brennan, August 2011.

⁴ Note on process: An original scan of relevant federal policies was requested by the advocacy work group and developed by the Center for Housing Policy (CH P) in the spring of 2011: Clare Duncan, Laura Williams and Maya Brennan, “Annie E. Casey

Category: Cross-cutting priorities

This category includes policy/advocacy strategies that cut across all of the other categories and are targeted to communities of color.

Near-term priority:

- Ensure that federal programs include funding for outreach and translation services. Work group members agreed that federal programs – within all four categories, described below – will be more effective in reaching households and communities of color if they include funds for outreach and translation services.⁵

Category: Safer routes to homeownership/access to credit for future homeowners

This category includes policy and advocacy priorities that help to establish a safer route to homeownership and expand access to credit for low-income households of color.

Near-term priorities:

- Strengthen and defend the Consumer Financial Protection Bureau (CFPB)
The CFPB, created through the Dodd-Frank Wall Street Reform and Consumer Protection Act, will play a critical role in many of the areas prioritized by participants in the national dialogue. Specific advocacy priorities related to the CFPB include the following:
 - *Influencing Servicing Standards* – Federal regulators are in the process of developing national servicing standards, guidelines servicers would be required to follow to improve transparency and protect consumers. The CFPB will play a major role in developing national standards, offering an important opportunity for national dialogue participants to ensure that the new standards address the needs of low-income households and communities of color.
 - *Ensure equitable credit scoring practices* – The FICO credit score is a key determinant of access to, and cost of, credit, yet research has shown persistent racial and ethnic differences in credit scores. CFPB will take over most rulemaking authority under the Fair Credit Reporting Act (FCRA) thereby giving it a critical degree of influence in terms of rulemaking, enforcement and supervision of the credit scoring process.
 - *Increase data collection* – The lack of data on race and foreclosures has consistently impeded national, state and local advocacy efforts. Ensuring the CFPB is maximizing the collection of and access to data regarding race and foreclosure is a work group priority. (Note: Dodd-Frank directs the CFPB and HUD to produce a database on delinquency and foreclosure.)

Foundation Foreclosures and Communities of Color Policy Scan,” Center for Housing Policy, June 2011. The scan included a proposed methodology and initial ranking of advocacy priorities. CHP then conducted a follow-up survey of national dialogue participants to obtain input on the rankings, followed by additional re-ordering and refinement by the full advocacy work group and a subcommittee of the work group in June and July of 2011. The document was reviewed and refined by the full membership of the national dialogue in August 2011 to produce this final version.

⁵ Some work group members noted the need for local discretion over the allocation of federal funds for translation and outreach to ensure they meet the needs of targeted communities. National dialogue participants affirmed the significance of this priority in relation to federal funding for housing counseling, in particular.

- *Establish Consumer Advisory Board* – Dodd-Frank directs the CFPB to establish a Consumer Advisory Board that would include civil rights, fair housing, consumer protection and other experts; this advisory board would provide an important avenue for policy input from advocates.
 - *Influence mortgage lending rules, enforcement, supervision* – Work group members will continue to engage with CFPB on mortgage lending rule-making, enforcement and supervision including the definition of Qualified Mortgage (QM) and Qualified Residential Mortgage (QRM).
- Restore and protect funding for housing counseling – In April 2011 \$88 million in federal funding for housing counseling was eliminated from the HUD FY 2011 budget. The decision came as a surprise to many advocates as research consistently demonstrates the value of housing counseling in getting people into sustainable mortgages and avoiding foreclosure. Several national intermediaries are working to educate Congress about the importance of housing counseling and to ensure that funding is restored in the FY 2012 budget. Funding for housing counseling – through restored HUD funding; fees paid by banks, mortgage servicers and investors; resources from the attorneys general settlement; or other strategies – has been identified as a top priority by work group members.
 - Advocate for smart government-sponsored enterprises (GSE) reform – While reform of the government-sponsored enterprises, Fannie Mae and Freddie Mac, is expected to take time, many work group members are already involved in advocacy to ensure that GSE reform provides access to affordable homeownership opportunities for low-income households of color. For example, work group members are already engaged in debates over the definitions of “qualified residential mortgage” or “QRM” and “qualified mortgage” or “QM”, given the perceived impact of these definitions on future access to credit for low-income and households and communities of color. Participants agreed that the AECF dialogue should play a role in building consensus around and advancing key provisions of GSE reform, as discussions unfold.
 - Expand legal assistance funding – Legal assistance for homeowners fighting foreclosure has been flagged as a priority by work group members because private funding has diminished in the past year, and federal funding is limited due to long-standing political opposition in Congress. While not an advocacy strategy, per se, work group members agree that fund-raising for legal assistance is a priority.

Longer-term priorities:

- *Strengthen and expand the Community Reinvestment Act (CRA)* – Strengthening and expanding the CRA is a longer-term priority for members, but the appropriate advocacy strategy is unclear at this point. Several members are following CRA-related developments and will keep work group members informed as opportunities emerge.
- *Support intermediate housing tenures* – The work group views support for intermediate housing tenures – such as shared equity homeownership and lease-purchase – as a priority but agreed that relevant policies are mostly underway at the state and local levels. One federal option would be the creation of a Promote Affordability to Homeownership (PATH) fund, as described

in a 2010 *American Progress* article,⁶ but this approach is likely to have low viability at this time.⁷ The work group will continue to monitor state and local developments and look for opportunities for federal support through incentives in federal programs (such as CDBG and HOME) and other strategies.

Category: Foreclosure prevention and mitigation

This category includes policies and advocacy priorities designed to help homeowners who are in default on their mortgage and in danger of foreclosure.

Near-term priorities:

- Defend/expand federal support for unemployed homeowners –
 - *Support implementation of the Emergency Homeowners' Loan Program (EHLPL) and conduct intensive outreach and education in communities of color*⁸— Dodd-Frank allocated \$1 billion to HUD to implement the EHLPL, a program to provide mortgage payment relief to unemployed homeowners. HUD's implementation of the program has been slow and the deadline for the "obligation," or expenditure, of funds is September 30th, 2011. In light of this deadline, working group members will advocate for a reinterpretation of the term "obligation" so that it allows more time for HUD to implement the program, but this approach faces an uphill battle.
 - *Advocate for strong programs in Hardest Hit Fund (HHF) states* – The states with the highest foreclosure rates received funding for unemployed homeowners through the federal HHF program, rather than through EHLPL. Work group members agree that programs in HHF-funded states should also be monitored to identify and address challenges in terms of program implementation in communities of color.
 - *Monitor enforcement of extended forbearance and hold servicers accountable* – Under new federal guidelines announced on July 7th, 2011 servicers will be required to reduce mortgage payments for up to 12 months for homeowners with Federal Housing Administration (FHA) loans. Servicers will be directed to do the same under the Home Affordable Modification Program (HAMP), and unemployed homeowners who are already behind will be eligible for the program. While this is an important step forward in helping unemployed homeowners, the new guidelines will have little impact if they're not enforced. Work group members will be monitoring the implementation of the new extended forbearance guidelines including Treasury outreach to eligible homeowners and penalties to servicers who do not comply. Since the guidelines do not apply to GSE loans, work group members will be advocating for the Federal Home Finance Agency to adopt similar guidelines; others will be working to hold servicers accountable for implementing the new guidelines.

⁶ Jacobus, Rick, and David Abromovitz. 2010. "A Path to Homeownership: Building a More Sustainable Strategy for Expanding Homeownership." *Journal of Affordable Housing and Community Development Law*, 19(3 and 4): 313-344. Also online at: http://www.americanprogress.org/issues/2010/02/shared_equity.html.

⁷ It should be noted that the Cornerstone Partnership recently received a multi-year, multi-million federal grant from the Social Innovation Fund to support the capacity of high-performing local nonprofits to steward public investment in affordable homeownership units.

⁸ Note: NeighborWorks is implementing this program and has identified intensive marketing as an important role for them and counseling agencies between now and September. For more information, <http://ehlp.nw.org/>.

- Continue to push for improvements in existing loss mitigation and foreclosure prevention programs, including HAMP, and push for new solutions as opportunities emerge – Many aspects of federal foreclosure prevention programs are not being implemented. For example, banks and other holders of securitized mortgages are required to do loss mitigation analysis – to evaluate the cost of performing a loan modification or other workout (including principal reduction or short sale) against the cost of foreclosure – but they regularly fail to do so.⁹ Work group members are continuing to push for improvements in loss mitigation and other key elements of foreclosure prevention programs, and they will be pushing for new solutions as opportunities emerge.

Longer-term priorities:

- *Mandatory mediation* – Mediation between homeowners and lenders/servicers has been found to provide homeowners with more options to stay in their homes or find alternatives to foreclosure, such as short sales and loan modifications. Federal legislation has been introduced to require mediation, but work group members agree that chances of passage are limited. More progress has been made at the state and municipal levels. Work group members will continue to monitor opportunities and keep national dialogue participants informed.
- *Bankruptcy law reform* – Legislation to allow bankruptcy courts to refinance mortgages has been supported by work group members in the past, but they agree that bankruptcy reform is politically infeasible at this time. The issue remains a priority for many members, however, and they will continue to monitor opportunities as they emerge.
- *Principal reduction* – Currently, homeowners who owe more on their homes than they are worth (commonly referred to as being “underwater”) have few options in terms of refinancing or principal reduction. While prospects for immediate success are unclear, principal reduction remains an important long-term priority for work group members. Non-legislative options to advocate for principal reduction include direct pressure on lenders, the state attorneys general settlement and other avenues.
- *Replication of innovative state and local solutions that keep owners in their homes* – States and localities have been experimenting with innovative strategies to reduce foreclosures and/or keep existing owners in their homes after foreclosure including two particularly promising models: the Mortgage Resolution Fund (MRF) in Illinois and the Boston Community Capital Stabilizing Urban Neighborhoods (SUN) initiative in Boston. The Mortgage Resolution Fund is a model developed by Mercy Portfolio Services now operating as a partnership between Mercy, Enterprise, National Community Stabilization Trust and the Housing Partnership Network. The Treasury Department recently approved the Illinois Housing Authority’s application to use \$100 million of the state’s Hardest Hit Funds for MRF to purchase underwater or delinquent mortgages at net present value and modify loans for existing borrowers. The program will begin with a pilot in the City of Chicago and then be replicated in other parts of the state.¹⁰ The SUN initiative involves the purchase of foreclosed properties at current market values and resale to

⁹ Center for Housing Policy, Policy Scan, June 2011, pg.6.

¹⁰ For more information, see Miriam Axel Lute, *Rooflines*, July 13, 2011, http://www.rooflines.org/2285/mortgage_resolution_fund_approved/

current occupants at a discount.¹¹ While both of these programs have been designed to meet the needs of local communities, they have the potential for scale through replication. Work group members will continue to watch for opportunities to incentivize replication through federal programs and incentives.

Category: Recovery by renters and homeowners

Priorities included in this section are designed to help renters and homeowners recover from foreclosure and rebuild their lives in a sustainable way.

Near-term priorities:

- Strengthen, make permanent, and allow tenants to sue under Protecting Tenants at Foreclosure Act (PTFA). Passed in 2009, the PTFA prevents the immediate eviction of tenants from properties that have been foreclosed upon. (Among other provisions, it requires the honoring of existing lease terms and provision of a 90-day notice to vacate.) The legislation expires on December 31st, 2014. Work group members agree that the PTFA should be strengthened and made permanent, and that tenants should be allowed to sue to enforce its provisions.¹² In addition, some work group members will be working to ensure that the CFPB plays a role in enforcing provisions to the Act.

Category: Stabilization of communities affected by foreclosure

Policies/advocacy strategies in this category are focused on revitalizing neighborhoods affected by large numbers of foreclosures, vacant properties and blight.

Near-term priorities:

- Ensure unspent Neighborhood Stabilization Program (NSP) funds remain within the program. The federal NSP aims to stabilize communities faced with concentrated foreclosures by facilitating the purchase and redevelopment of abandoned homes and residential properties. The program has included three rounds of funding, to date. Work group participants engaged in the program argue that the typically slow process of neighborhood revitalization means that the program's impact is only now beginning to be measurable. Work group members prioritized communications about the successes of the program as they become more evident in the months ahead and advocacy to ensure that unspent funds remain in the NSP program, as opposed to reverting to the general budget of the Treasury Department.

Longer-term priorities:

- *Expand federal incentives for land banking at the state and local levels.* Land banks are governmental or quasi-governmental entities dedicated to assembling properties – particularly vacant, abandoned and tax-delinquent properties – and putting them to productive use. Land banks can also hold and manage properties as needed until there is a viable plan for putting them to use. Enabling legislation that allows for the creation of land

¹¹ For more information, see <http://www.bostoncommunitycapital.org/what/sun-initiative>.

¹² CHP Policy Scan, pg. 13.

banks, primarily at the state and local levels, has been helpful in stabilizing neighborhoods. The federal government can support these efforts by authorizing and encouraging the use of federal funds for land banking. For example, NSP funding can already be used for the establishment of land banks to acquire and hold foreclosed properties until they can be re-used strategically for neighborhood stabilization. Work group members support efforts to encourage the federal government to provide additional incentives or funding for land banking at the state/local levels as a longer-term priority.

- *Identify state, local and national policies to address inequities related to bank-owned – Real Estate Owned or “REO” – properties.* National dialogue participants indicated the need to inventory and oppose policies that favor investors, as opposed to owner-occupants, in the purchase of REO properties. They also indicated the need to identify policies at the local, state and national levels to address the unequal levels of REO property maintenance in white communities versus communities of color, as documented in recent research.¹³

Next Steps:*

The advocacy work group of the national dialogue will continue to work together to identify ways to advance these policy priorities, and identify new opportunities as they emerge, in collaboration with other coalitions, where relevant. They will keep national dialogue participants apprised of policy developments through regular, national conference calls. Staff and consultants of the Annie E. Casey Foundation will work to widely circulate this agenda among funders and the advocacy community.

**For questions, comments, or to join the national campaign, contact Phillip Rowland-Seymour at the Annie E. Casey Foundation at prowland-seymour@aecf.org. To join the advocacy work, contact AECF Consultant Heather McCulloch at heather@assetbuildingstrategies.com.*

¹³ Recent research by the National Fair Housing Alliance research, focusing on REO properties in four metropolitan areas, indicated that banks often maintain REO properties located in White and some racially and ethnically integrated census tracts better than properties located in predominately African-American and Latino neighborhoods in the same metropolitan area. See “Here Comes the Bank: There Goes Our Neighborhood How Lenders Discriminate in the Treatment of Foreclosed Homes,” National Fair Housing Alliance, April 11, 2011, <http://www.nationalfairhousing.org/Portals/33/There%20Goes%20Our%20Neighborhood%20-%20REO%20report.pdf>.

Appendix A – AECF National Dialogue/Advocacy Work Group¹⁴

Coordinator:

*Heather McCulloch, Asset Building Strategies
Consultant/AECF*

Lillian Bowie
National Association for the Advancement of Colored People

Maya Brennan
Center for Housing Policy

Angela Brown
The Hyams Foundation

Jim Carr
National Community Reinvestment Coalition

Roger Clay
Insight Center for Community Economic Development

Alys Cohen
National Consumer Law Center

Linda Couch
National Low Income Housing Coalition

Sheila Crowley
National Low Income Housing Coalition

Garrick Davis
National Urban League

Lisa Donner
Americans for Financial Reform

Bruce Dorpalen
Affordable Housing Centers of America

Rich DuBois
National Consumer Law Center

Clare Duncan
National Housing Conference

¹⁴ People on this list have participated in at least one work group call since the summary of 2010.

Tom Feltner
Woodstock Institute

Maria Foscarinis
National Law Center on Homelessness and Poverty

Chris Goett
National Community Reinvestment Coalition

Ed Gorman
National Community Reinvestment Coalition

Megan Haberle
Opportunity Agenda

Mary Hanlon
National Housing Conference

Abony Holmes Alexander
San Francisco Foundation

Adam Kruggel
Contra Costa Interfaith Supporting Community Organization

Tim Lilienthal
PICO National Network

Meizhu Lui
Advisor/Insight Center for Community Economic Development

Sham Manglik
National Low Income Housing Coalition

Liz Ryan Murray
National People's Action

Noel Poyo
National Association for Latino Community Asset Builders

Dory Rand
Woodstock Institute

Amanda Roberts
Enterprise Community Partners

Christy Rogers
Kirwan Institute for the Study of Race and Ethnicity, Ohio State University

Jeremy Rosen
National Law Center on Homelessness and Poverty

Ascala T. Sisk
NeighborWorks America

Kevin Stein
California Reinvestment Coalition

Preeti Vissa
The Greenlining Institute

Carolyn Watts
Indiana Department of Community Services

Marceline White
Maryland Consumer Rights Coalition

Janelle Williams
The Center for Working Families

Beadsie Woo
The Annie E. Casey Foundation