



**Significance of Housing Counseling in  
Stabilizing Minority and Latino Homeownership**

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Intermediaries in Preventing Foreclosures”**

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My name is Janis Bowdler, and I am Associate Director of the Wealth-Building Policy Project at the National Council of La Raza (NCLR). NCLR is the largest national Hispanic<sup>1</sup> civil rights and advocacy organization in the United States, dedicated to improving opportunities for Hispanic Americans. I oversee our research and advocacy on issues related to increasing financial security and asset ownership for Hispanic families. While at NCLR, I have published on a number of issues important to the Latino community, including *Saving Homes, Saving Families: Hispanic Brokers Speak Out on Latino Homeownership* and *Jeopardizing Hispanic Homeownership: Predatory Practices in the Homebuying Market*, and provided expert testimony before the U.S. House Financial Services Committee on several occasions, as well as before the U.S. Senate Committee on Banking, Housing, and Urban Affairs and the Board of Governors of the Federal Reserve. In addition, I have served as a technical assistant to grantees of the NCLR Homeownership Network. Prior to coming to NCLR, I worked for a large community development corporation (CDC) in Cleveland, Ohio, as a Project Manager developing affordable housing. On behalf of NCLR, I would like to thank Chairwoman Maxine Waters and Ranking Member Shelley Moore Capito for inviting us to this hearing.

For more than two decades, NCLR has actively engaged in relevant public policy issues such as preserving and strengthening the Community Reinvestment Act (CRA) and the Home Ownership and Equity Protection Act (HOEPA), supporting strong fair housing and fair lending laws, increasing access to financial services for low-income people, and promoting homeownership in the Latino community. For the last 11 years, NCLR has been helping Latino families become homeowners by supporting local housing counseling agencies. The NCLR Homeownership Network (NHN), a network of 51 community-based housing counseling providers, works with more than 40,000 families annually and nurtured more than 25,000 first-time homebuyers in its first decade. Recently, our focus has shifted to helping families keep their homes. In addition, NCLR was awarded a Housing Counseling Training grant by the Department of Housing and Urban Development (HUD) to provide training and certify housing counselors nationwide in 2008. Our subsidiary, the Raza Development Fund (RDF), is the nation's largest Hispanic community development financial institution (CDFI). Since 1999, RDF has provided \$400 million in financing to locally based development projects throughout the country. This work has substantively increased NCLR's institutional knowledge of how Latinos interact with the mortgage market, their credit and capital needs, and the impact of government regulation on financial services markets.

Right now, Latino communities are watching a generation of wealth acquired through homeownership slip through their fingers. It will take years to fully understand the implications of our current foreclosure and economic crisis, but it is clear that Latino, minority, and immigrant communities are among the hardest-hit Americans. Their ability to enjoy a secure retirement, send their children to college, and weather financial emergencies is in severe jeopardy. Nonprofit housing counseling agencies are on the frontlines of providing assistance to our families. Yet, support for this work has not kept up with demand. We hope Congress will commit to strengthening the counseling infrastructure and ensure these services are more widely available to combat foreclosures and help future homebuyers avoid common lending traps.

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<sup>1</sup> The terms "Hispanic" and "Latino" are used interchangeably by the U.S. Census Bureau and throughout this document to identify persons of Mexican, Puerto Rican, Cuban, Central and South American, Dominican, and Spanish descent; they may be of any race.

Several members of this Committee have long championed the work of housing counselors, and we thank you for your support. In particular, we would like to thank Chairwoman Maxine Waters (D–CA) and Representatives Nydia Velázquez (D–NY), Ruben Hinojosa (D–NY), and Judy Biggert (R–IL) for their continued support, as well as Chairman Barney Frank (D–MA) and Representative Spencer Bachus (R–AL) for their leadership in this area.

In my testimony today, I will discuss NCLR’s work in the housing counseling field, the important role of housing counseling intermediaries, and the strengths and weaknesses of the National Foreclosure Mitigation Counseling program. I will close with a series of recommendations.

## **Background**

For decades, many of us have worked together to build wealth in Latino and other underserved communities. Like all Americans, Latinos rely on homeownership to build wealth for their long-term financial well-being. Unfortunately, the mortgage market did not serve the Latino and immigrant communities well. Hispanic and immigrant borrowers often have unique profiles, including lack of traditional credit history, multiple co-borrowers, and cash income, which makes them unattractive to lenders who rely heavily on automated underwriting. While prime lenders, the Federal Housing Administration (FHA), and the Veteran’s Administration (VA) offered loans that could accommodate these families, most lenders referred hard-to-serve borrowers to their subprime affiliates or simply did not market themselves in certain communities. This created a vacuum that subprime and predatory lenders quickly filled. Reckless and deceptive lending has now led to record-high foreclosure rates in Latino and minority communities. Research shows that Latinos are 30% more likely than Whites to receive high-cost loans when purchasing their homes.<sup>2</sup> As a result, as many as 400,000 Latino families are at risk of losing their homes to foreclosure this year alone.<sup>3</sup>

Responding to early warning signs, NCLR engaged in a number of efforts to better understand how to prevent foreclosures among Hispanic and immigrant households. Three years ago, NCLR began providing advanced foreclosure prevention training for NHN housing counselors through a partnership with the National Consumer Law Center. Last year, NCLR launched the NCLR Home Rescue Campaign to help community-based organizations address the rising rate of foreclosure. The campaign features funding for foreclosure prevention counseling, a Home Rescue Fair pilot program, and a tool kit on foreclosure prevention for community-based organizations. NCLR also helped form the Alliance for Stabilizing Our Communities in partnership with the National Urban League (NUL) and the National Coalition for Asian Pacific American Community Development (National CAPACD) with support from Bank of America. The Alliance works to expand the capacity of minority- and immigrant-serving nonprofits to combat the effects of foreclosures.

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<sup>2</sup> Debbie Gruenstein Bocian, Keith S. Ernst, and Wei Li, *Unfair Lending: The Effect of Race and Ethnicity on Price of Subprime Mortgages* (Durham, NC: Center for Responsible Lending, 2006).

<sup>3</sup> *Projected Foreclosures to Latinos by State* (Durham, NC: Center for Responsible Lending, 2009).

## Community-Based Foreclosure Prevention Responses

### *Housing Counseling Intermediaries*

The HUD Housing Counseling Program funds more than a dozen housing counseling intermediaries, of which NCLR is one. Intermediaries are designated and approved by HUD to distribute HUD housing counseling funds to their networks based on work plan goals and outcomes. These organizations compete for funding each year, and awards are based on the quality of counseling work, quantity of clients seen, past performance, demand for services, depth and breadth of the delivery network, and other criteria. NCLR has been a HUD intermediary for more than 11 years and is the only such network to focus principally on the Latino community.

Housing counseling intermediaries play a crucial role in the housing counseling field. Intermediaries work closely with HUD to expand the availability of counseling services to new communities and identify the needs of communities and the nonprofits that serve them. The intermediaries provide leadership in four specific areas, strengthening the counseling field and improving the quality and professionalism of counseling services.

- **Quality control:** Intermediaries are responsible for ensuring that the organizations they fund comply with HUD standards, as laid out in the *HUD Housing Counseling Program Handbook*. In most cases, intermediaries enforce professional and ethical standards above those called for in the handbook. NCLR is one of several national intermediaries that sits on the NeighborWorks Counseling and Homebuyer Education Committee (NCHEC) and worked to develop industry standards for homeownership counselors and educational professionals. These standards have been endorsed or adopted by more than 700 national and local counseling agencies and funders across the country.<sup>4</sup> All HUD-certified agencies are audited biennially. Should a HUD intermediary's grantee fail an audit, funding for their entire network would be jeopardized.
- **Training and capacity-building:** Intermediaries work closely with their networks to train new staff on proper counseling materials, technology, reporting requirements, and management techniques. This is an important part of ensuring that HUD standards are met. However, it is also critical to helping organizations remain stable over time. NCLR's work with counseling agencies helps to smooth transitions in times of leadership or staff turnover, plug gaps in funding, introduce new partnerships, and expand services to additional localities. As a result of our approach, NCLR has helped to open more than 16 housing counseling programs in as many states—almost a third of our housing counseling network. This has been especially critical to communities in the Southeast and Midwest where the Hispanic population has been growing rapidly, but where few agencies have the capacity to provide bilingual services.
- **Partnerships:** Intermediaries have played a leading role in crafting partnerships that have become models for the counseling industry. For example, NCLR, NeighborWorks America, Housing Partnership Network, and ACORN Housing worked together to push lenders to pay agencies for well-counseled borrowers, who have been shown to default

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<sup>4</sup> To review standards, visit: <http://www.homeownershipstandards.com>.

less than similarly situated peers though less informed peers. We came together again to share information and models for dealing with foreclosures, partnering with servicers, and combating the foreclosure crisis. We are particularly proud of the Alliance for Stabilizing Our Communities. As a result of our collaborative work, counseling agencies in our network have greater access to funding, exclusive mortgage products, and streamlined approaches to foreclosure mitigation.

- **Technology and product development:** The national intermediaries have pioneered counseling technology that is now widely available to all counseling agencies. The two major technology platforms—Home Counselor Online and CounselorMax— have continued to evolve to allow counselors to better evaluate each borrower’s or homeowner’s financial circumstances. The counseling intermediaries have also worked closely with mortgage lenders to develop home loans that meet the needs of clients without sacrificing sound lending principles. Last year, NCLR introduced new origination technology to our network that will increase the efficiency of lending to our low- and moderate-income clients.

### *NCLR Homeownership Network*

NCLR has been creating homeownership opportunities in low- and moderate-income Latino communities for more than 11 years. Housing counselors play a crucial role as independent, third parties that offer unbiased information and advice to homebuyers, renters, victims of predatory lending, and families facing a financial emergency. NHN counselors emphasize one-on-one counseling—in person whenever possible—that has been shown to be a more effective way to generate positive outcomes for Latino families.<sup>5</sup> This approach helps the family feel more comfortable, allows them to have private questions answered, and gives the counselor the opportunity to evaluate their situation and develop tailored solutions for the family’s personal finances. We have used this proven methodology to help thousands of families secure their first homes. As the foreclosure crisis hit, we began applying the same approach to homeowners at risk of foreclosure. Over the last 12 months we have counseled more than 7,500 homeowners facing foreclosure, a 250% increase from the previous year, the vast majority of which are families that never received homeownership counseling before they purchased their homes.

Our approach is not without its costs. On average, it takes NHN counselors 15 hours to help a family through the foreclosure prevention process. Counselors use this time to establish a family budget, evaluate the client’s mortgage and financial circumstances, draft a hardship letter, and negotiate with the servicer on the family’s behalf for an affordable mortgage. The hours spent per client can quickly exceed this average when mortgage servicers are unresponsive, causing counselors to have to resend workout packets<sup>6</sup> multiple times, or when mortgage servicers do not

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<sup>5</sup> Ryan M. Johnson, Elsa Macias, *Home to Own: A New Model for Community-Based Low-Income Mortgage Lending*. (Arizona: Morrison Institute for Public Policy, 1995). See also: Brenda Muniz, *Financial Education in Latino Communities: An Analysis of Programs, Products, and Results/Effects*. (Washington, DC: National Council of La Raza, 2004). Janis Bowdler, *Financial Literacy and Education: The Effectiveness of Governmental and Private Sector Initiatives*. (Washington, DC: National Council of La Raza, 2008); and Eric Rodriguez, *Licensing and Registration in the Mortgage Industry*. (Washington, DC: National Council of La Raza, 2005).

<sup>6</sup> Workout packets usually include a borrower’s expense budget, bank statements, proof of income, hardship letter, and request for loan modification, pre-foreclosure sale, or deed-in-lieu.

have bilingual staff and counselors are asked to interpret calls and translate documents. NHN counselors focus on in-depth counseling sessions which ensure that at-risk homeowners understand all of their options, find the best possible resolution, and get connected to other resources such as job training, mental health, and family counseling. For this reason, we do not focus on phone counseling or providing referrals. We keep our clients in-house and counsel them until a resolution is met.

To augment the services provided by our network, NCLR has established strategic partnerships with mortgage servicers to generate marketing, outreach, and funding opportunities. For example, NCLR, NUL, and National CAPACD have launched the Alliance for Strengthening Communities campaign with Bank of America. This campaign includes funding to hire housing counselors in areas hard hit by the foreclosure crisis, marketing and outreach materials for Home Rescue fairs that can reach borrowers in the early stages of default, and funding to distribute a tool kit on community-based responses to the foreclosure crisis. Our Home Rescue Fairs have drawn crowds of up to 1,000 people who are seeking foreclosure prevention assistance. This program has helped NCLR build capacity in areas of need and promote crucial services that will help many families save their homes from foreclosure. NCLR has also established a partnership with Ocwen Financial Corporation, a leading servicer of subprime mortgages. This partnership is designed to protect the significant financial investment made by low-income families when they purchased a home as well as to support nonprofit counseling agencies that serve these families. NHN agencies and Ocwen jointly promote foreclosure prevention services for families with delinquent mortgage loans being serviced by Ocwen. Funding is provided to NHN agencies to market foreclosure services, and agencies are reimbursed for their work with each client.

The demand for foreclosure prevention assistance is on the rise. This is due in part to the success of the NCLR counseling model. Word-of-mouth referrals generate the majority of our new clients. New initiatives launched by Congress, HUD, and the presidential administration, have also sparked demand.<sup>7</sup> We are concerned, however, that demand is outpacing capacity. More than one-third of our agencies report that they are routinely forced to turn families away because they do not have the capacity to serve them. Without a robust counseling system that can provide in-person, one-on-one counseling, we fear that families will not be able to access foreclosure prevention solutions or will fall prey to foreclosure rescue scam artists.

#### *National Foreclosure Mitigation Counseling Program*

Last year, in response to the foreclosure crisis, Congress and the administration authorized two rounds of \$180 million for a National Foreclosure Mitigation Counseling (NFMC) program. This funding was allocated to NeighborWorks America for quick and efficient turnaround to community-based housing counseling agencies. NeighborWorks successfully awarded grants to 130 community-based organizations within 60 days of the legislation's approval, as required by

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<sup>7</sup> The Neighborhood Stabilization Program requires borrowers purchasing a foreclosed property that has been rehabilitated under the program to first complete homebuyer counseling. The administration's Home Affordable Modification plan requires struggling homeowners with a debt-to-income ratio above 55% to meet with a housing counselor before their modifications can be approved. Counselors must be trained in all of the different program areas to properly assist families.

the statute. Funding was also used to expand NeighborWorks's training program to certify housing counselors in foreclosure prevention methods.

NeighborWorks is one of NCLR's partner HUD intermediaries. NCLR sits on the NeighborWorks Center for Homeownership Education and Counseling (NCHEC) Advisory committee, and we often work together to shape public policy and provide information to stakeholders on the role and needs of nonprofits. We are reluctant to be put in a position where we may appear to be critical of a partner; however, we need to express our concerns about the challenges that community-based organizations have had with the implementation of the NFMC program. In particular, NCLR has five major concerns:

- **NFMC reporting requirements created challenges and additional expenses.** The NFMC reporting requirements are far more complex than the HUD reporting requirements for the housing counseling program. While we welcome a high level of accountability and data collection, these requirements were not clear at the outset of the granting period, nor is it clear now that there is a need for the additional requirements. The 42 data-point collection for each client is burdensome. This reporting has taken time away from counselors, disrupting their focus on counseling. For many agencies, hiring additional support staff to assist with data collection and reporting has been necessary to maintaining client services. In addition, the major technology systems employed by the majority of counseling agencies took several months to update, thus counselors were unable to capture the new reporting fields for the first four months of the program. As a result, many organizations were forced to report far fewer sessions than were actually completed and therefore earned far less income than expected. For example, for our first quarter of reporting to NFMC, NHN agencies reported nearly 2,000 clients to HUD, but only 465 clients to NFMC. This caused a delay in much-needed funding for our community-based organizations and spread disillusionment with the program. Furthermore, NHN agencies necessitated extensive technical assistance, and NCLR's operating costs for administration of the NFMC program increased by 40%.
- **NFMC does not incentivize in-depth foreclosure counseling.** NFMC's elaborate fee structure does not prioritize in-person, one-on-one foreclosure prevention counseling, which is shown to produce better outcomes among Hispanic families. Grantees earn fees for each level of counseling (see chart below). Because Level 1 is so much easier to complete, the fee structure creates an incentive to focus on providing information and referrals, which are not the heart of effective housing counseling. For groups to be paid for providing Levels 2 and 3, they must help secure a resolution for the homeowner at risk of foreclosure, which may take many months. Thus, because fees are paid on a reimbursement basis, many of our agencies are not paid the amount that they are expecting on a quarterly basis, despite having completed hours of negotiations with servicers. NeighborWorks reported that 70% of its first round of funding went toward Level 1, 8% to Level 2, and 22% Level 3. The fee structure perversely encourages Level 1 counseling and discourages the in-depth foreclosure counseling that is most likely to actually help families save their homes.

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| Level 1                            | Counselor conducts general intake, gathering initial information about the borrower, then refers the client for Level 2 counseling. This may take 20 minutes or up to one hour.  |
| Level 2                            | Counselor verifies the client's information and provides loss mitigation services, such as negotiating with the servicer, working to secure a modification or other resolution.  |
| Level 3                            | Counselor successfully completes the loss mitigation process with the client and has secured a resolution. This takes an average of 15 hours per client and can take between three and six months or longer to complete. |
| Level 4<br>(new level for Round 2) | Counselor helps the client to secure a modification or refinance according to the Making Home Affordable plan.   |

- Funding was not targeted to build capacity.** Prior to what most agree is the worst housing and economic downturn in a generation, housing counseling programs were focused on helping first-time homebuyers. To meet the increased demand for foreclosure prevention counseling services, housing counseling agencies had to shift gears, hire and train staff, and market their new services to the community. The difficulty of this cannot be underestimated. In many cases, agencies were trying to create awareness among a new segment of their local markets—households that had not previously relied on nonprofits or attended counseling. Many agencies have struggled to reach families before their options have run out. NFMC provided a small amount of funding to mitigate this situation, but did not focus on building the capacity necessary to fully meet the demands of the crisis. A better approach would have been to dedicate a larger portion of the overall funding to developing capacity in foreclosure hot spots while also negotiating with servicers to pay housing counselors for their services.
- The program lacks a long-term perspective.** To participate in the NFMC program, housing counseling agencies had to project the number of foreclosure counseling sessions they would provide and be reimbursed for. If their projections were wrong, the organizations ran the risk of budget deficits. Further complicating the calculation, NFMC failed to make clear whether there would be additional rounds of funding—a problem that continues in the field. Many agencies chose not to hire new staff until they were sure they would not have to lay off their employees due to a lack of funding. NCLR surveyed its network eight months after the implementation of the NFMC program, and found that 60% of NHN agencies need additional counselors, but do not have the funds to hire. Moreover, because of their experience with the first round of funding, NHN organizations generally have underestimated the number of foreclosure counseling sessions and requested less funding in an effort to minimize the risk of budget deficits in the second round of NFMC funding. The combination of the lack of upfront funding,



reporting complications, and uncertainty of additional funding caused challenges for community groups to expand their staff and capacity in a meaningful way.

- **Funding did not appropriately target minority communities hit hard by predatory lending.** While Blacks, Hispanics, and Asians make up 32% of the total U.S. population, they represent at least 55% of individuals living in poverty, according to the United States Census,<sup>8</sup> and a larger portion of the low- to moderate-income population at risk of foreclosure. In addition, minority communities were twice as likely as non-minorities to be sold damaging subprime products. For example, 53% of mortgage loans to Blacks and 47% to Hispanics were subprime, compared to only 26% of loans to Whites in 2006.<sup>9</sup> Data for Asian Americans are only available on an aggregate basis and therefore mask the projected disproportionate number of high-cost loans to subpopulation groups that have higher rates of limited English proficiency or are more recently immigrated. We also know that the percentage of Native Hawaiians and Pacific Islanders receiving high-cost loans is 33%, exceeding the national average. If NFMC services were equitably targeted to low- and moderate-income populations disproportionately affected by the subprime foreclosure crisis, one would expect at least two-thirds to as much as three-quarters of recipients to be racial and ethnic minorities. The fact that 52% of families counseled so far are minorities is simply inadequate. As an organization with a public purpose and heavily funded by the federal government, NeighborWorks's target population should be low- and moderate-income families and underserved communities.

Investing in minority-serving institutions is about more than just the number of families served. Research and experience have shown that cultural competency is critical when reaching minority and immigrant populations. Community-based organizations located in the neighborhoods they serve have established relationships with local leaders and have their pulse on community needs. They are often the first point of contact for struggling families. By not investing in these organizations, NFMC is leaving behind entire neighborhoods that rely on them. Moreover, mainstream organizations often lack bilingual and bicultural staff necessary for fully meeting the needs of immigrant households. In a forthcoming publication, the Reinvestment Fund found that of 31 counseling agencies claiming to provide foreclosure counseling in Spanish, only 13 could actually do so when a secret shopper requested such services.<sup>10</sup> Finally, we also point out that as federally funded programs, the HUD Housing Counseling Program and NFMC are required to ensure that their services are fully accessible to language minorities as stated in Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency.<sup>11</sup> It is far

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<sup>8</sup> These percentages are based on the poverty universe reflected in the "Annual Social and Economic Supplement," in the U.S. Census Bureau's *Current Population Survey*. The *Current Population Survey* is an annual survey of approximately 78,000 households nationwide. The poverty universe does not include unrelated individuals less than 15 years of age living in households.

<sup>9</sup> Wilhelmina A. Leigh and Danielle Huff, *African Americans and Homeownership: The Subprime Lending Experience, 1995 to 2007*, November 2007 (Washington, DC: Joint Center for Political and Economic Studies, 2008), 5.

<sup>10</sup> Ira Goldstein and Cathy Califano, *Impacts of Changes in the Home Mortgage Market on Hispanic Homeowners in Pennsylvania and Delaware*. A study by the Reinvestment Fund for the Federal Home Loan Bank of Pittsburgh and the Pennsylvania Housing Finance Agency, 2009.

<sup>11</sup> Clinton B. August 11, 2000. Improving Access to Services for Persons with Limited English Proficiency. Executive Order 13166. <http://www.usdoj.gov/crt/cor/Pubs/eolep.php>. Accessed May 2008.

from clear that NFMC, as currently administered, complies with this executive order. It is critical that our housing counseling infrastructure reflect all of America's communities and that efforts be made to build capacity and support institutions in historically underserved areas.

## **Recommendations**

- **Improve services to minority and underserved communities.** In its report to Congress, NeighborWorks did not disaggregate its data by race and ethnicity, geography, and language. Doing so would shed more light on actual services provided to vulnerable communities and hold counseling providers accountable for serving all populations. We also recommend that an analysis be completed of any unspent, uncommitted funds. Available funds should be reprogrammed as appropriate to target organizations serving minority communities and hard-hit localities.
- **Create incentives for outcome-based counseling.** The NFMC fee structure should be retooled to prioritize in-person, one-on-one counseling, which has been shown to be most effective. An overreliance on intake and referral will lead to thousands of struggling homeowners stuck in the front end of the system with insufficient capacity at the back end, where foreclosures actually can be averted.
- **Increase funding support for housing counseling to \$500 million.** We recommend that the House Financial Services Committee dramatically increase the authorization for housing counseling and that a portion of the funding be set aside for foreclosure prevention counseling. In addition, NCLR calls on industry leaders to support the foreclosure intervention services through funding and partnerships.
- **Create a robust national campaign against foreclosure.** The federal government and private stakeholders, such as lenders, servicers, and counselors, must come together to launch a national campaign that would combine social awareness, emergency assistance, and strong enforcement against fraudulent rescue scams. Public Service Announcements (PSAs) in various media and languages can build awareness of what to do in the case of mortgage delinquency and where to turn for help. The campaign should also direct families to HUD counseling services in their neighborhoods for further assistance.