



**AN ACCELERATING  
FORECLOSURE CRISIS AND EVICTIONS  
-- MORAL HAZARD --  
IN COMMUNITIES OF COLOR  
IN BROOKLYN, NEW YORK.**

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**THE HIGH RATE OF ILLEGAL FORECLOSURES & HOME LOAN SALES  
BY FANNIE MAE, FREDDIE MAC & HUD  
TO CASH-RICH, PRIVATE HEDGE-FUND INVESTORS,  
PLUS  
THE LOW RATE OF LOAN MODIFICATION APPROVALS  
TO QUALIFIED, BORROWERS BY FANNIE MAE & FREDDIE MAC  
UNDER THE FEDERAL GOVERNMENT’S HAMP PROGRAM,  
PLUS  
THE COOPTING OF NEW YORK STATE COURTS  
BY FANNIE MAE, FREDDIE MAC AND THEIR  
BIG BANK LOAN SERVICING FORECLOSURE PARTNERS,  
HAVE RESULTED IN  
AN ACCELERATING FORECLOSURE CRISIS, EVICTIONS  
AND MORAL HAZARD IN COMMUNITIES OF COLOR.**

## **THE FORECLOSURE CRISIS**

- IS NOT OVER IN BROOKLYN, NEW YORK, NOR IN OTHER NEW YORK COMMUNITIES OF COLOR.

## **SALES OF HOME LOANS BY HUD, FANNIE & FREDDIE & ILLEGAL FORECLOSURES AFFIDAVITS & PROCEEDINGS**

- ARE THE DIRECT LINK TO LOSS OF BLACK WEALTH IN COMMUNITIES OF COLOR IN BROOKLYN.
- ARE THE GENESIS OF FORECLOSURE RESCUE SCAMS, DEED THEFT AND EQUITY THEFT.

## **THE FORECLOSURE CRISIS:**

- IS EXACTING A DEVASTATING TOLL ON FAMILIES.
- IS TEARING APART COMMUNITIES OF COLOR.

**NYSFDB Reports on What's Going On in Our Brooklyn, NY Communities ...”**

## **THE ONGOING FORECLOSURE CRISIS IS ACCELERATING THE MORAL HAZARD OF FORECLOSURES ON COMMUNITIES AND BORROWERS OF COLOR IN BROOKLYN, EW YORK:**

### **□ THE 2016 MORAL HAZARD OF FORECLOSURES ADDS UP TO AN EXPONENTIAL INCREASE IN:**

- ❖ THE DISPLACEMENT OF FAMILIES OF COLOR FROM THEIR FAMILIAL NEIGHBORHOODS
- ❖ AN ALARMING RISE IN HOMELESSNESS AMONG AFRICAN-AMERICAN FAMILIES
- ❖ WIDESPREAD, UNREGULATED FORECLOSURE RESCUE SCAMS, DEED & EQUITY THEFT
- ❖ AN OVERHEATED REAL ESTATE MARKET THAT IS EXCLUSIVE TO PRIVATE INVESTORS THAT PURCHASE LOANS IN LARGE BLOCKS FROM HUD, FANNIE MAE & FREDDIE MAC
- ❖ LOSS OF EQUITY, FAMILY INVESTMENT, PLACE AND COMMUNITY BY FAMILIES OF COLOR (LOSS OF FINANCIAL SECURITY AMONG WORKING FAMILIES)
- ❖ FAMILIES OF COLOR LIVING WITH A CONSTANT FEAR THAT THEY ARE BEING TARGETED & PREYED UPON; THAT THEY WILL BE VICTIMS OF ILLEGAL FORECLOSURES OR EVICTIONS; THAT THEY WILL HAVE NO PROTECTION FROM THE LAW OR THE COURTS.
- ❖ THE ADVANCING OF FANNIE MAE AND FREDDIE MAC'S AGENDA IN BROOKLYN, NEW YORK TO REDUCE HOMEOWNERSHIP AMONG WORKING FAMILIES OF COLOR, AND DESTABILIZE HISTORIC IMMIGRANT COMMUNITIES AND COMMUNITIES OF COLOR.

# New York State Attorney General Sounds the Alarm! on April 8, 2016

□ **On April 8, 2016, NYS Attorney General Eric Schneiderman called for Fannie Mae and Freddie Mac to adopt a policy of principal write downs to achieve loan modifications, to keep families in their homes:**

- ❖ “... there are still far too many homeowners suffering from the devastation of the housing crisis, a significant portion of whom are have mortgages insured by Fannie Mae and Freddie Mac ... in 2013 alone, there were nearly 60,000 homeowners in New York who were delinquent on mortgages controlled by Fannie Mae and Freddie Mac,  
...
- ❖ “As you know, there is significant evidence that homeowners who are seriously delinquent on their mortgages are most likely to avoid foreclosure and remain in their homes when reduction of principal balance is part of a loan modification offer,” Schneiderman writes.
- ❖ “While virtually all of the large commercial single family lenders now include principal reduction in their foreclose mitigation options for struggling borrowers, both Fannie Mae and Freddie Mac continue to deny this badly needed relief to consumers causing countless numbers of families to remain at risk.”

# NYSFDB HAS FOUND THAT SINCE 2009 ...

- ❑ Brooklyn homeowners who reside in communities of color account for a significant percentage of the homeowners with mortgages controlled by Fannie Mae and Freddie Mac in 2009-2016, since they were targeted or unfairly placed in subprime loans prior to 2008.
- ❑ Brooklyn/New York homeowners in communities of color who qualify for loan modifications under the federal government's HAMP program continue to be denied loan modifications and face foreclosure at the direction of Fannie Mae and Freddie Mac, now with the cooperation of the New York State courts.
- ❑ Brooklyn homeowners especially are prejudiced by stereotypes advanced by Fannie Mae, Freddie Mac, the private investor market, their loan servicers and attorneys since 2008
  - ❖ That Brooklyn and other New York homeowners are dead-beat borrowers who couldn't have afforded mortgages and are not entitled to homeownership, or who doesn't want to pay their bills, even though these are working individuals and families, taxpayers, and highly regarded members of their communities
- ❑ Brooklyn homeowners are headed towards judgments and auctions in 2016 in the name of Fannie Mae & Freddie Mac's loan servicers or trustees, for the financial benefit of Fannie Mae and Freddie Mac (as the primary bond holder/investor in the related mortgage backed security), or for the benefit of the cash-rich investors or hedge funds that purchase home loans from Fannie, Freddie and HUD in private, closed auctions.
  - ❖ Brooklyn homeowners will face evictions by or on behalf of Fannie Mae or Freddie Mac, instead of being given an opportunity to preserve their homeownership with affordable loan modifications, with principal write downs, and good-faith applications of the HAMP underwriting standards, under the program that is in fact administered for the federal government by Fannie Mae & Freddie Mac.

# FORECLOSING PLAINTIFFS FANNIE MAE AND FREDDIE MAC

## “Behind the Curtain”, Steering New York State Courts

Fannie Mae and Freddie Mac - private entity, real party in interest in New York State foreclosure proceedings; eviction parties or beneficiaries in NY Housing Courts

- ❑ The actual plaintiffs, or the senior mortgage backed securities’ bond investor for which the foreclosing plaintiff is acting, in thousands of active foreclosure cases in New York State’s judicial counties (including Kings County)
- ❑ Fannie Mae and Freddie Mac deny loan modifications routinely, through their loan servicers, and orchestrate the submission of misleading or false affidavits to secure foreclosure judgments and auctions instead of loan modification workouts.
- ❑ Fannie Mae and Freddie Mac were permitted to travel across New York State with the Office of Court Administration (OCA) personnel to observe and participate, without disclosure to the litigants, in mandatory settlement conferences at which primarily *pro se* homeowners were seeking a HAMP or other loan modifications
- ❑ Fannie Mae & Freddie Mac, realizing that they can’t convert New York State to a non-judicial state through the legislature, have taken control of New York States’ judicial administration and courts, having engaged in *ex parte* meetings with OCA and court administrative judges and personell, following which the courts streamlined the judicial foreclosure process
- ❑ The 2016 result:
  - ❖ The effective, non-legislative undoing of New York State’s judicial foreclosure proceedings and law
  - ❖ An effective obstruction of due process afforded to New York real property owners, for the benefit of Fannie and Freddie’s private-party portfolio, cash-rich investor partnerships and profits
  - ❖ A flagrant usurping of the neutrality, impartiality and integrity of NY State Courts at all judicial levels (at the trial, supreme court, and at the appellate levels).

# A TROUBLING, ALARMING GENESIS, PARTNERSHIP & PROGRAM

**THE NEW YORK STATE OFFICE OF COURT ADMINISTRATION** has apparently teamed up with **Fannie Mae & Freddie Mac**: to advance their private-market, profit making agenda – instead of state law -- by agreeing to fast track homeowners' properties to auctions and evictions, even though the New York State Legislature and Federal Government's agenda continue to be preservation of homeownership whenever possible and stabilization of communities, and a policy to keep working families active participants in the homeownership market, and even though ...

**FANNIE MAE AN FREDDIE MAC'S POLICY/AGENDA** since 2009 has been clear: to build an expansive real estate owned (REO) portfolio – at the expense of homeowners' investment and equity -- with homes taken at foreclosure auctions, utilizing false or fraudulent affidavits, illegal foreclosure proceedings, sewer service, and overall disdain for judicial states' law, following unwarranted or unreasonable HAMP denials, in order to profit from loan trades with distressed asset, hedge fund or other cash-rich loan purchasers, who are then unleashed on local communities and families, as open, unprotected game or prey. 8



# NEW YORK STATE COURT ROOMS AND COURT HOUSES HAVE BEEN CONVERTED INTO AN ACTIVE COMMODITIES MARKET/CLEARING HOUSE FOR FANNIE MAE & FREDDIE MAC'S TRADES IN MORTGAGE LOANS

- ❑ WITH DISREGARD FOR NEW YORK'S HISTORIC BLACK LETTER LAW AND STANDARDS, THE SETTING ASIDE OF JUDICIAL, DUE PROCESS, CONSTITUTIONAL PROTECTIONS, AND THE CASTING ASIDE OF HISTORIC REQUIREMENTS FOR PROOF OF A CLAIM TO FORECLOSE
- ❑ THAT A FORECLOSING PLAINTIFF (1) FIRST PROVE ITS OWNERSHIP OF THE MORTGAGE NOTE AND (2) NEGOTIATE IN GOOD FAITH WITH A HOMEOWNER TO PROVIDE HIM/HER WITH A LOAN MODIFICATION UNDER THE FEDERAL GOVERNMENT'S HAMP PROGRAM WHENEVER POSSIBLE, BEFORE BEING GRANTED A FORECLOSURE JUDGMENT
- ❑ THIS DISREGARD FOR DUE PROCESS IS PRESENTLY THE DIRECT CAUSE OF THE ONGOING FORECLOSURE CRISIS & MORAL HAZARD ON FAMILIES AND COMMUNITIES OF COLOR .
- ❑ NEW YORK COURTS HAVE BECOME "LEGISLATORS FROM THE BENCH"
- ❑ NEW YORK COURTS ARE HANDING DOWN DECISIONS THAT OVERLOOK OR SANCTIFY FALSE AFFIDAVITS AND LACK OF PROOF BY FORECLOSING PLAINTIFFS
- ❑ NEW YORK COURTS ARE DISREGARDING THEIR STATUTORY DUTY TO SAVE HOMEOWNERSHIP WHENEVER POSSIBLE EVIDENCE
- ❑ NEW YORK STATE COURTS ARE PRESENTLY RETOOLING THE JUDICIAL FORECLOSURE PROCESS, MOVING CASES ON A FAST-TRACK TO JUDGMENTS & AUCTIONS

## THE 2015 ENGINE OF THE ONGOING FORECLOSURE CRISIS -- ACROSS NEW YORK STATE, ESPECIALLY IN BROOKLYN

- ❑ **The New York State Court of Appeals' late 2015 decision in *Aurora Loan Servs., LLC v. Taylor*, which sets aside the UCC and other statutory requirements for a foreclosing plaintiff's proof of ownership of the mortgage note in a foreclosure action, establishing instead that a hearsay affidavit by an employee of an entity that is not the plaintiff -- who craftily claimed to hold a legal position at the foreclosing plaintiff (while not being a lawyer), and who claimed personal knowledge of "possession" of the mortgage note by the foreclosing plaintiff prior to commencement of the action (while not being an employee of the foreclosing plaintiff), and who submitted that the note was received from yet another non party entity -- is sufficient basis for the named foreclosing plaintiff to move forward to judgment and auction, even though this named plaintiff is no longer in business, even though the UCC requires indorsement and delivery, and hearsay affidavits are not admissible evidence in any other form of litigation.**
  - ❖ A hearsay affidavit with questionable or false claims is sufficient proof of claim and standing to foreclose.
  - ❖ The Court of Appeals disregarded one Justice's correct call for more factual details of the chain of ownership
  - ❖ The Court of Appeals disregarded centuries of law and legal standards
  - ❖ With that holding, the family may now to lose their home to an entity that no longer exists, while the foreclosure proceeds in its name to judgment and auction, most likely fraudulently.

## THE 2016 ENGINE OF THE ONGOING FORECLOSURE CRISIS -- ACROSS NEW YORK STATE, AND IN BROOKLYN ESPECIALLY

- ❑ THE NEW YORK STATE OFFICE OF COURT ADMINISTRATION (“OCA”) --  
MARCHING ORDERS TO STATE COURTS :
  - ❖ “STREAMLINE” THE JUDICIAL FORECLOSURE PROCESS
  - ❖ CORRALLING RESIDENTIAL FORECLOSURE CASES BEFORE A LIMITED  
NUMBER OF JUDGES, WITH SUMMARY PROCEEDINGS
- ❑ The Result: A flagrant disregard for New York State Constitution’s  
due process protections for real property owners
- ❑ The Result: A flagrant disregard for New York State legislature’s  
statutory protections and intent to save homeownership whenever  
possible with loan modifications to eligible homeowners.

# NYSFDB's CURRENT PERSPECTIVE: **SOUNDING THE ALARM!** BROOKLYN COMMUNITIES OF COLOR FACE LOSS OF WEALTH, DISPLACEMENT OF FAMILIES & ECONOMIC GENTRIFICATION

- ❑ NYSFD estimates no less than 12,000 active residential foreclosures in Kings County in 2016 (OCA has the number at approximately 8,000 in Feb. 2016, but may exclude recently commenced foreclosures; Realty Trac reports the number at 9,675 from the *lis pendens* (notices of pendency on file); an additional number remain in the court's "shadow docket" or part of rescue scams. Since most Brooklyn residential properties are either one-family homes, or homes with 2- 4 family units (owner family unit + rental family units):
  - ❖ **The Low-End Displacement Factor:** If we average 5 people per residential property, then we can reasonably conclude that approximately 50,000 individuals (or working families with children) will be displaced or forced to move to homeless shelters in New York City in the coming 12-24 month period.
  - ❖ **The High-End Displacement Factor:** If we average 10 people per residential property, then we can reasonably conclude that approximately (or greater than) 100,000 individuals (or working families with children) will be displaced or forced to move to homeless shelters in the next 12 to 24 months.
- ❑ The economic demographics of working-family communities, especially working-family communities of color, are and will continue to change drastically from 2016 to 2021, with the median income of the incoming property owners and residents far in excess of the historic or current area median income for NYC working family communities!

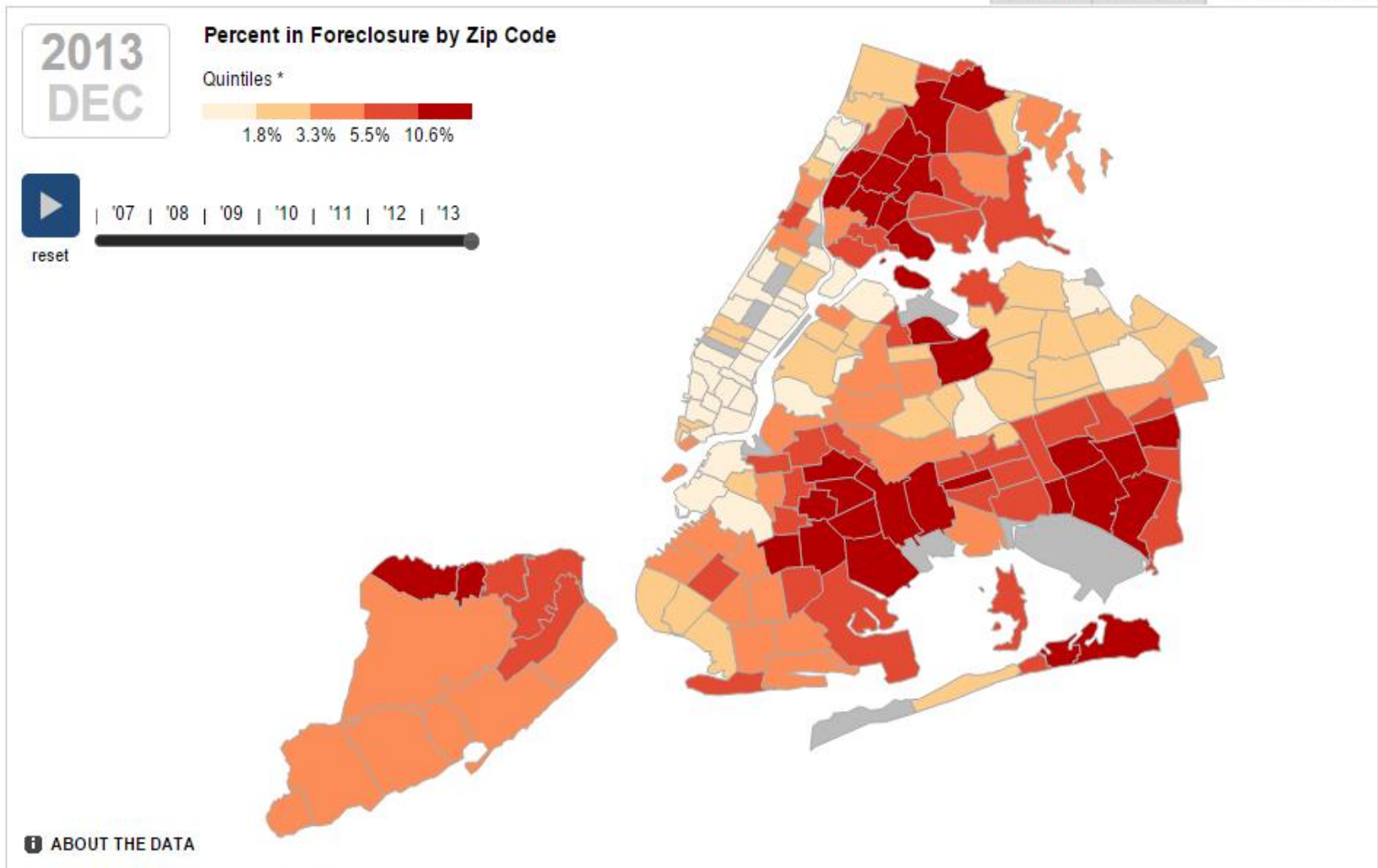
# NYSFDB ESTIMATES THAT CLOSE TO \$10 BILLION IN FAMILY WEALTH WILL BE LOST IN BROOKLYN COMMUNITIES OF COLOR IN THE COMING 3 – 5 YEAR PERIOD

- In 2016
  - ❖ approximately 12,000 residential foreclosures in Kings County
- High Foreclosure Communities are
  - ❖ Bushwick, East New York, Bedford Stuyvesant, Crown Heights, Flatbush, East Flatbush and Canarsie
  - ❖ Ergo ~ Communities of color
- Current Market Value of Residential Properties in Foreclosure in 2016: on average ~ \$700,000.00
- At least \$3,000,000,000 (= Three Billion Dollars)
  - ❖ in community and family wealth could be lost to foreclosure auctions in 2016-2017 (deducting for outstanding loans).
- Approximately to \$10,000,000,000 (= Ten Billion Dollars)
  - ❖ in community and family wealth, if not more, could be lost over the coming 3 to 5 years by the transfer of residential properties from Brooklyn families to Fannie Mae and Freddie Mac – into their REO portfolio -- and then from these entities to their cash-rich, private-investor market partners, to change communities.



# Ranking of Mortgages in Foreclosure by NYC Zip Codes -- as of December 2013 (NY Federal Reserve Bank)

60 DAYS 90+ DAYS FORECLOSURE



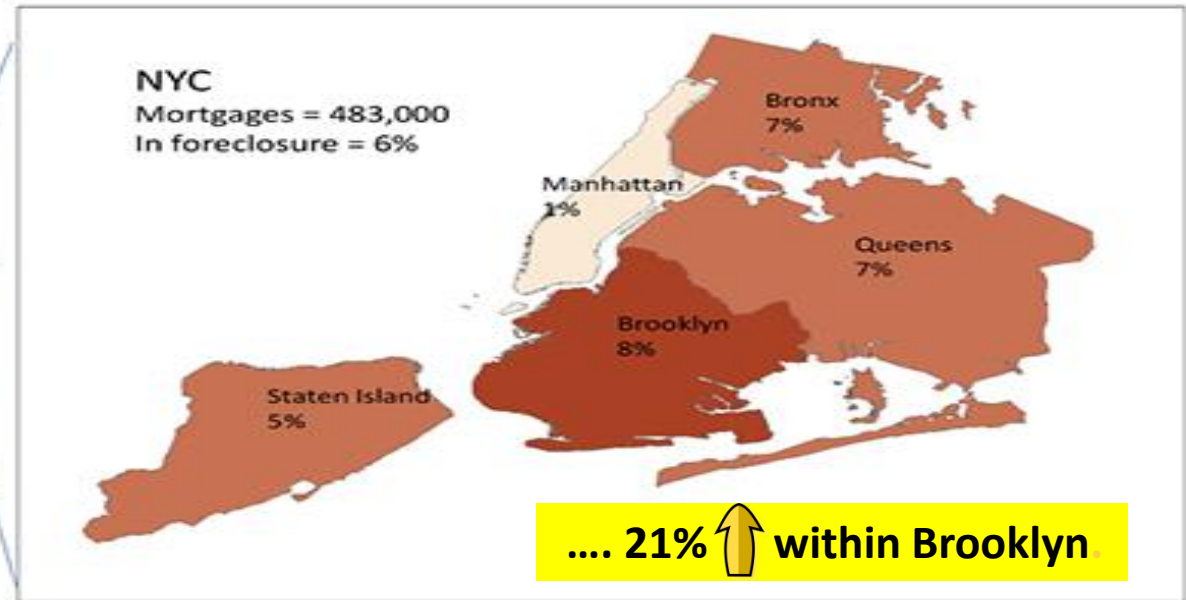
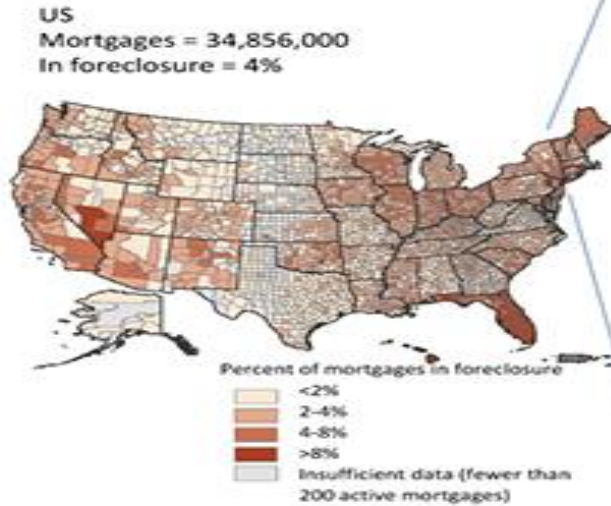
\* quintiles established on Dec. 2013 data for the displayed region  
Note: Regions with insufficient data are shown in grey.

Source: CoreLogic LoanPerformance, Lender Processing Services Mortgage Performance data



# New York City: Among Highest Foreclosure Rates in United States

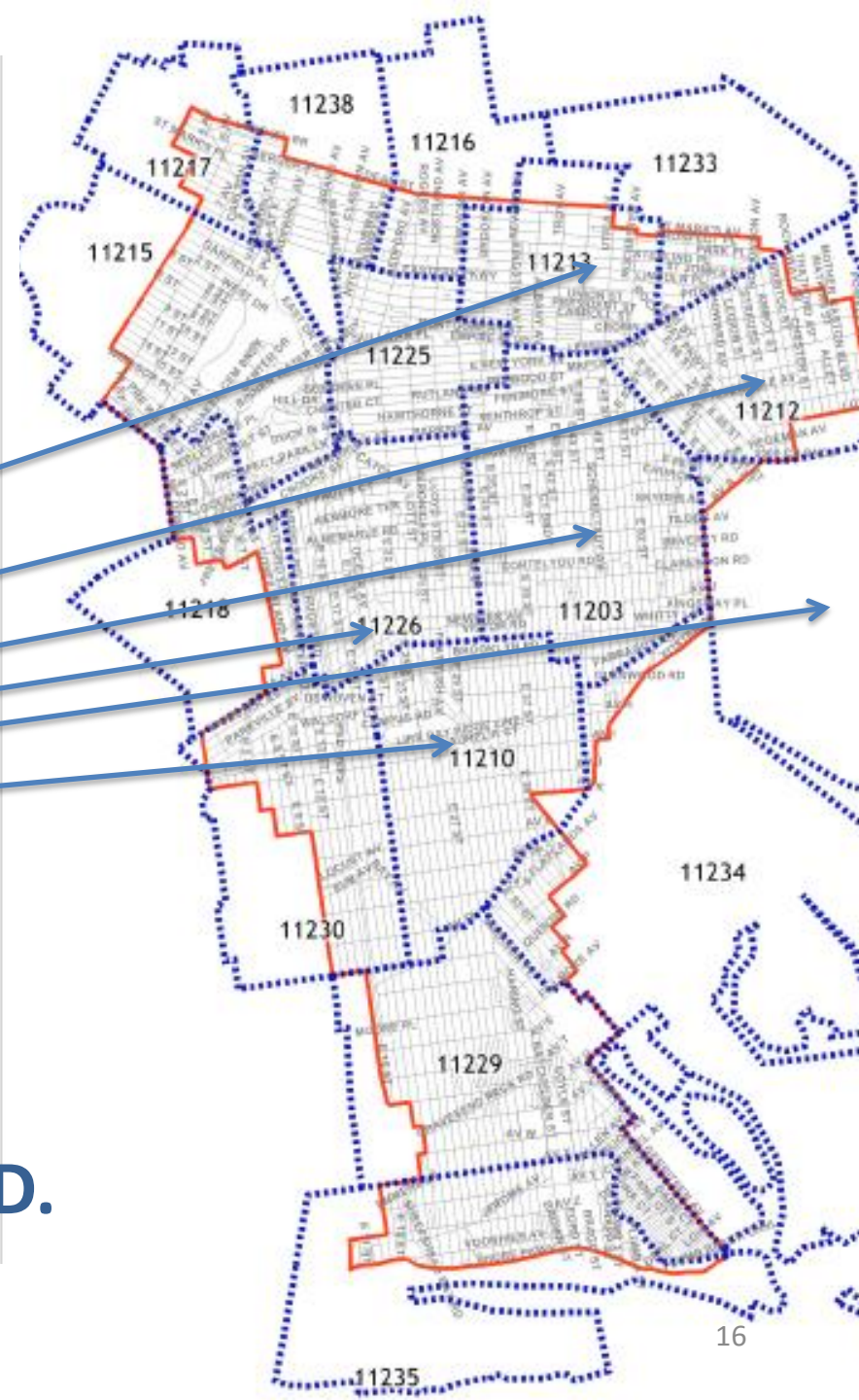
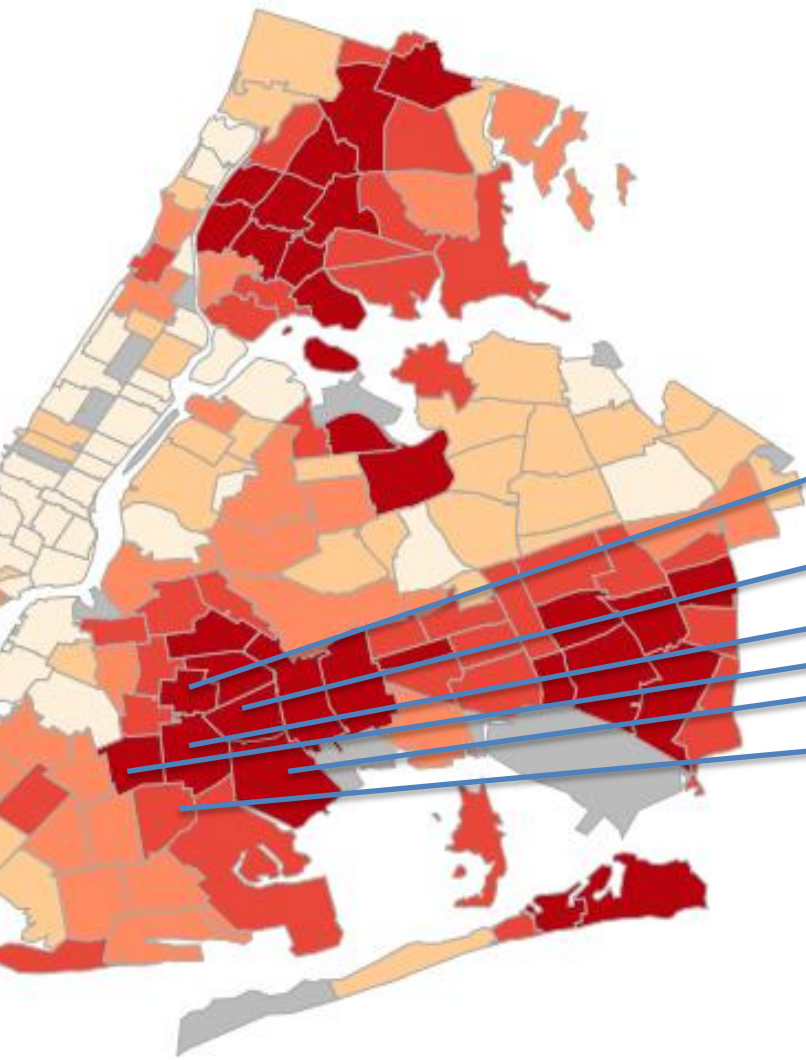
NY FEDERAL RESERVE - 2013



Sources: LP and LPS as of 3/1/2011. See ABOUT THE DATA tab for more information and coverage estimate.

**One in eight (1 in 8) Brooklyn residential mortgages was seriously delinquent or went into foreclosure by December 2013**

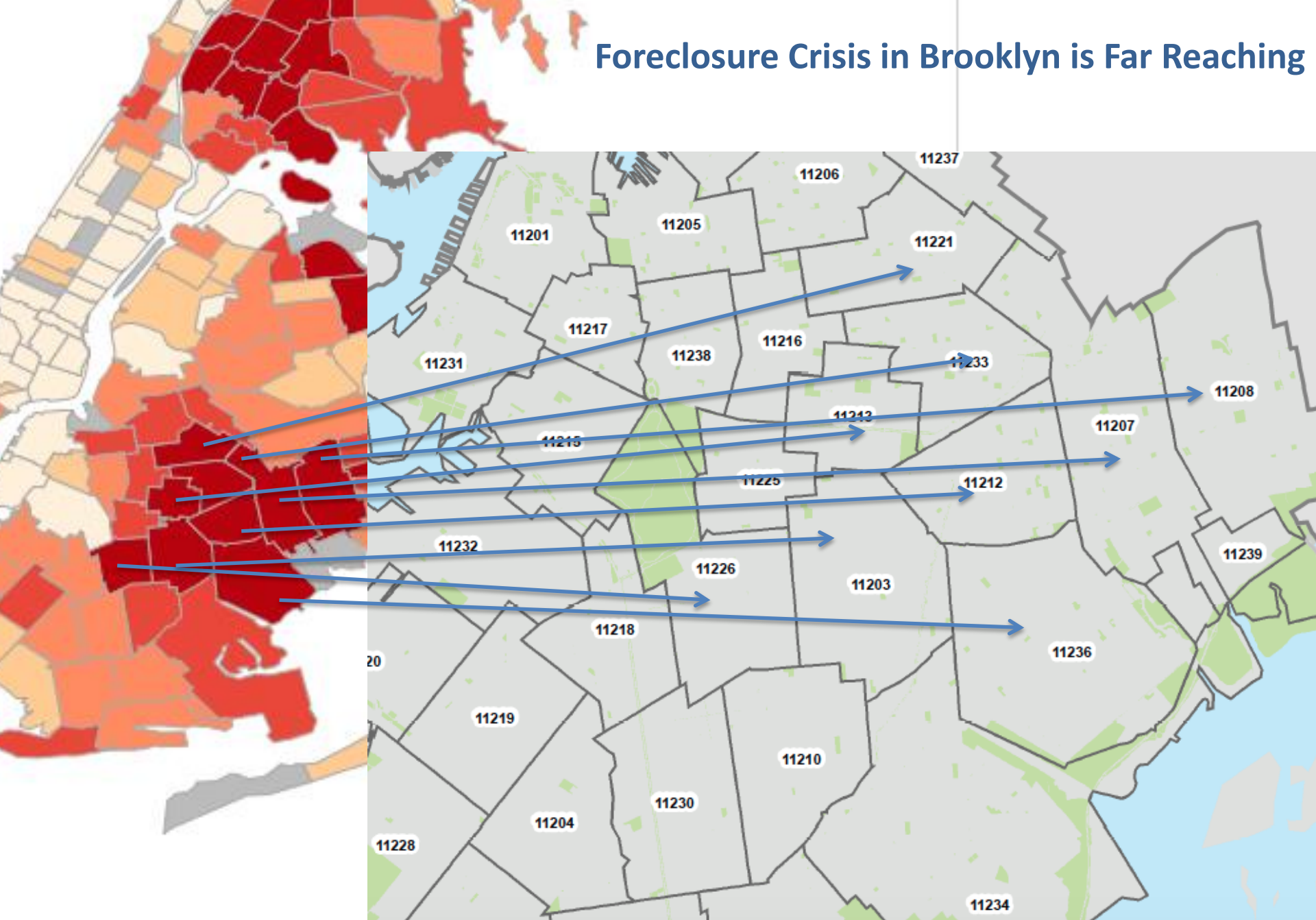
**In high foreclosure neighborhoods in Brooklyn for example, the percentage of residential mortgage loans in foreclosure by December 2013 was as high as 21%**



**Foreclosure Density in 9<sup>th</sup> C.D.**



# Foreclosure Crisis in Brooklyn is Far Reaching





**KINGS COUNTY, NEW YORK,  
HISTORICAL PERSPECTIVE:**

- A WORKING-FAMILY BOROUGH
- COMMUNITIES OF COLOR,  
WITH A HIGH-PERCENTAGE  
OF HOMEOWNERSHIP
- DIVERSE IMMIGRANT & ETHNIC  
NEIGHBORHOODS, HISTORICALLY



**CURRENT PERSPECTIVE:**

**12,000 FORECLOSURES IN KINGS COUNTY SUPREME COURT IN 2016  
OF WHICH APPROXIMATELY 10,000 ARE AGAINST HOMEOWNERS  
LIVING AND RAISING FAMILIES IN ONE- TO FOUR- FAMILY PROPERTIES,  
ALONGSIDE TENANT FAMILIES, IN DIVERSE, COMMUNITIES OF COLOR**

# RACE UNFORTUNATELY STILL MATTERS

*Impact of the US Housing Crisis on the Racial Wealth Gap Across Generations at [https://www.aclu.org/sites/default/files/field\\_document/discrimlend\\_final.pdf](https://www.aclu.org/sites/default/files/field_document/discrimlend_final.pdf).*

See - Sarah Burd-Sharps and Rebecca Rasch (July 2015)

“ In the recovery, race matters.

“From 2007 to 2009, household wealth, with and without home equity, dropped sharply for black and white families. But during the crucial recovery period of 2009 to 2011, black and white families had very different experiences. In that period, white wealth levels, excluding home equity, began to show signs of recovery: median white household wealth exhibited zero loss. **During that same time period, however, black households continued to experience severe declines, with the typical black household losing 40 percent of non-home-equity wealth.** Similarly, black and white wealth levels, including home equity, each dropped significantly during the 2007–2009 period. During the 2009–2011 period, however, the typical white family’s losses slowed to zero, while the typical black family lost an additional 13 percent of its wealth. (At the time this study was conducted, 2011 was the most recent year for which data were available in the dataset used for this research.)”

• • •

- “We conclude that the Great Recession disproportionately impacted, and continues to impact, black families, and that the effects of this disparity in wealth loss due to the subprime crisis will persist across the next several generations. Many studies have found that, throughout the subprime market, black borrowers stood a significantly higher chance of receiving higher-cost and higher-risk loans than white borrowers, even when controlling for factors related to creditworthiness.

\* \* \*

- “The unsurprising result was a high level of racial disparities in rates of foreclosure. As of 2010, “African Americans and Latinos [were], respectively, 47 percent and 45 percent more likely to be facing foreclosure than whites.”<sup>8</sup> One influential study found that “the greater the degree of Hispanic and especially black segregation a metropolitan area exhibits, the higher the number and rate of foreclosures it experiences.

\* \* \*

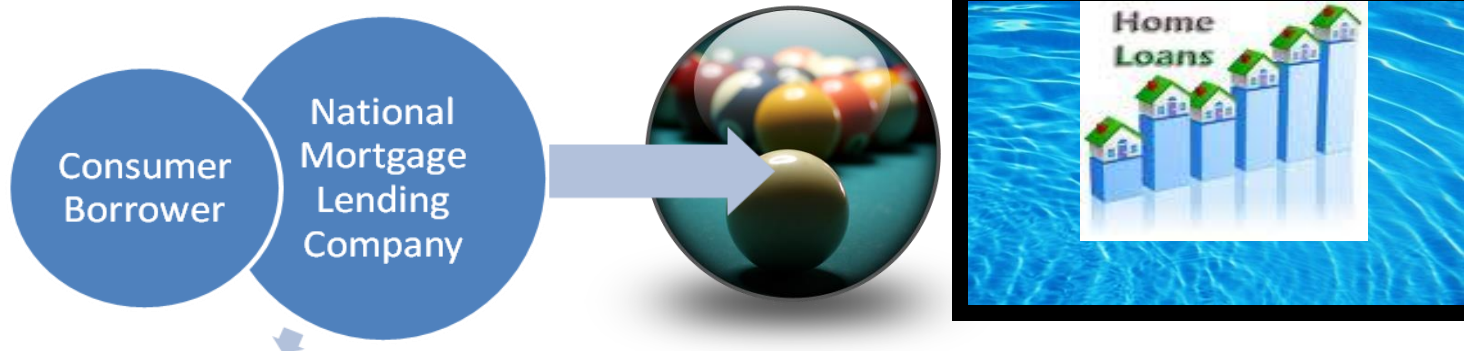
- “Given that the bulk of black wealth is held in home equity, we would expect that blacks would experience greater losses in total wealth on a percentage basis as a result of the housing crisis and subsequent Great Recession”

Sarah Burd-Sharps and Rebecca Rasch (July 2015)



# The “Great Subprime Mortgage Home Loan Financing Schema”

- Essentially a Wall Street -- capital markets, investment banking world -- financing transaction (*contrasted with a retail lending/commercial banking transaction*) that converts a **pool of Main Street home loans** into an **investment portfolio of assets of trust or an off shore entity** to support sale of bonds to institutional investors.



# Communities of Color Bear the Burden of Wall Street Subprime Securitizations

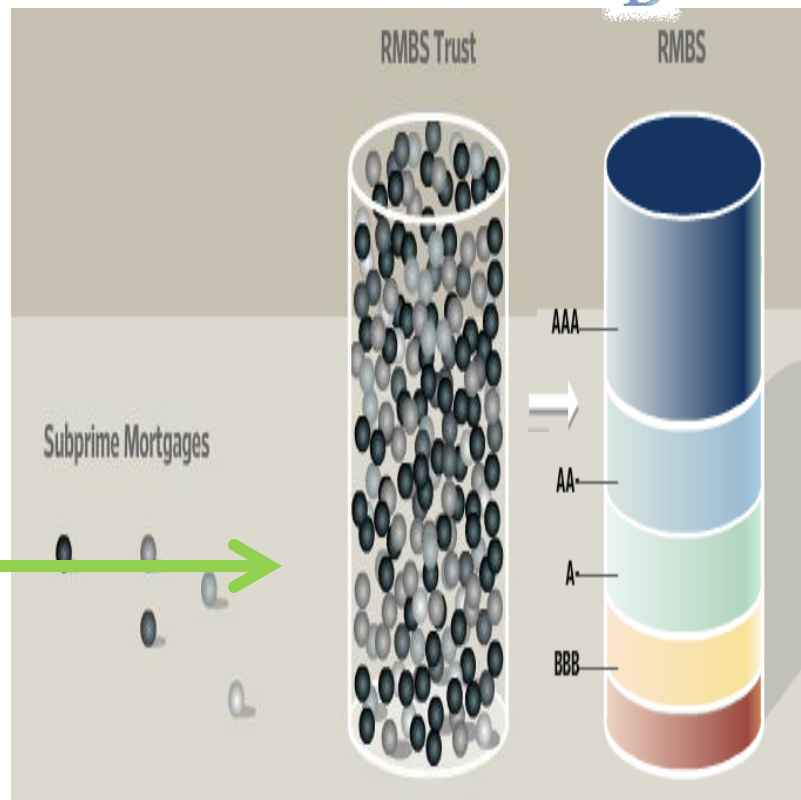
MAIN STREET, MORTGAGE BANK  
= NEIGHBORHOOD  
HOME LOAN LENDER =



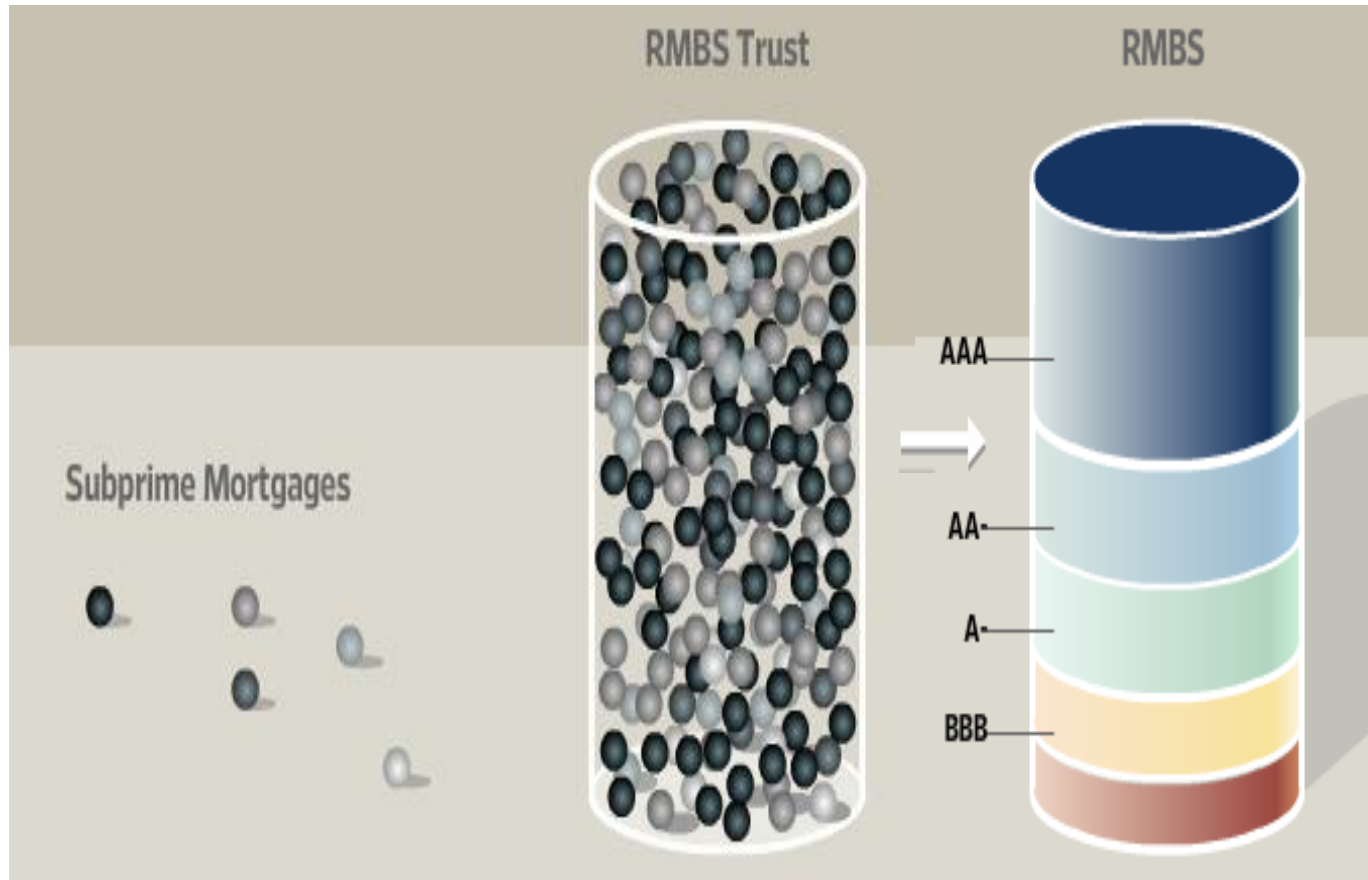
WALL STREET CREATED, STRUCTURED  
INVESTMENT/FINANCING PARTNERS  
= CDOs

A

B



**THE HOUSE THAT JACK BUILT  
ON WALL STREET WITH MAIN  
STREET SUBPRIME MORTGAGES  
PRIMARILY BETWEEN 2002-2007**



# *“THE HOUSE THAT JACK BUILT” with subprime mortgages*



**Depiction of the CDO – the Collateralized Debt Obligation  
– into which residential mortgage loans were “packaged” or “securitized” --  
– “The Big Short”: 2016**



**THE BEST POSITIONED AAA (TRIPLE A) BONDHOLDERS ON WALL STREET  
-- FANNIE MAE AND FREDDIE MAC -- SIT IN THE BEST POSITION IN NEW YORK  
COURTS, AT THE TOP OF THE HEAP, WHILE THE HOUSE THAT JACK BUILT  
CRUMBLES DOWN ON MAIN STREET HOMEOWNERS AND WORKING FAMILIES**



... while creating a moral hazard in Main Street communities of color especially since 2009 by denying HAMP modifications and moving the properties to foreclosure especially: The House that Jack & Jill Built came tumbling down, starting in 2009, on working-family homeowners, especially African-American and Latino Families

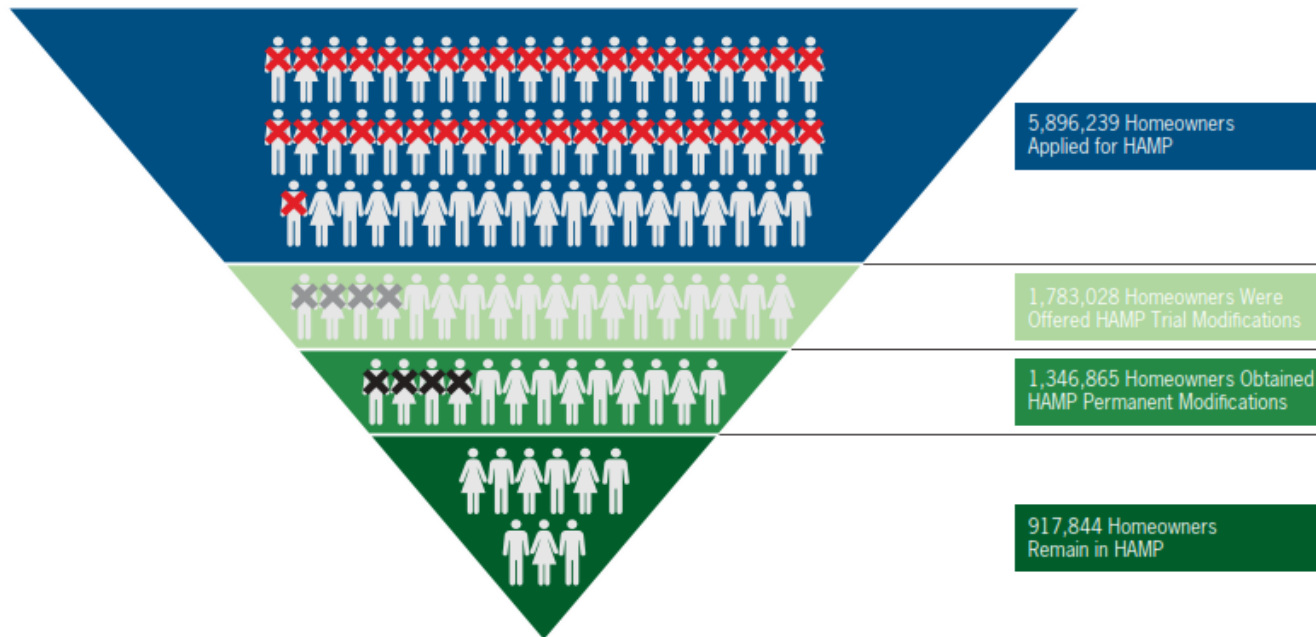
# REPORT OF THE SPECIAL INSPECTOR GENERAL FOR TARP (SIGTARP) TO CONGRESS IN JULY 2015 THAT:

- ❑ Throughout April 2015, more than 4 million homeowners nationwide saw their HAMP applications denied (**roughly 3 out of 4 homeowners were denied**).
- ❑ SIGTARP: “[T]he rate at which servicers have denied homeowners HAMP applications has remained high [over 80%] throughout the life of the program. “
  - ❖ **CitiMortgage, Inc. denied at least 87%** of homeowners who applied for HAMP (denying roughly 9 out of 10 homeowners)
  - ❖ **JPMorgan Chase denied 84%** of homeowners who applied for HAMP (denying ~1,000,000 applicants)
  - ❖ **Bank of America denied at least 80%** of homeowners who applied for HAMP (denying ~700,000 applicants)
  - ❖ **Wells Fargo denied at least 60%** of homeowners who applied for HAMP
- ❑ Beginning in 2013, when Ocwen became the largest HAMP servicer (primarily for Non-GSE loans, with Fannie Mae as the largest decision maker):
  - ❖ **Ocwen denied 70% of** homeowners who applied for HAMP (denying more than two-thirds of applicants).

# HAMP Application Outcome Summary – Most Applications Denied

FIGURE 4.2

HAMP APPLICATION OUTCOME SUMMARY, AS OF NOVEMBER 2015



- ✘ Application Denials (4,113,211 homeowners)
- ✘ Fell out during trial period (394,052 homeowners)
- ✘ Redefaulted and fell out of HAMP (376,749)

Notes: Prior to December 2009, Treasury did not require servicers to report on HAMP denials. November 2015 is the most recent date detailed data on HAMP is made available by Treasury. Accordingly, this analysis is limited to the period between December 2009 and November 2015. Analysis includes HAMP Tier 1, HAMP Tier 2, Treasury/FHA HAMP, and Treasury/RD HAMP data as HAMP denials are not categorized by program type.

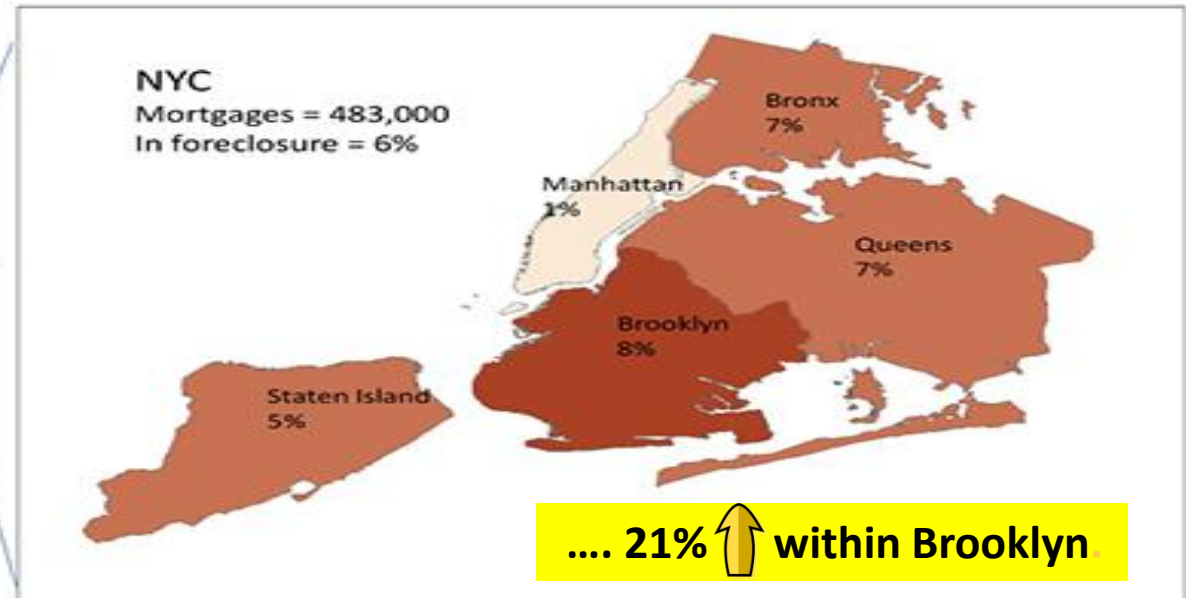
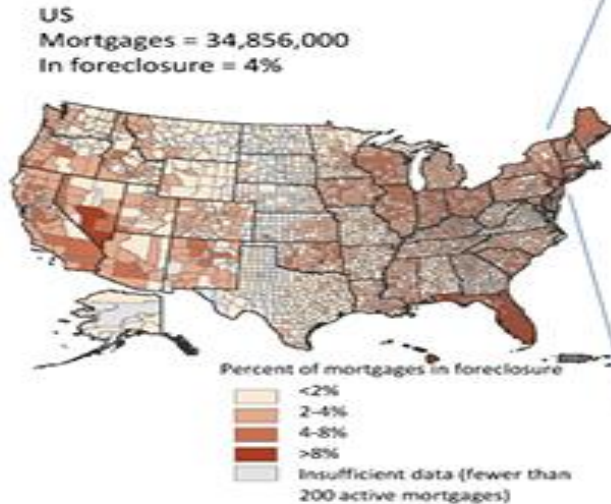
Sources: Treasury, "HAMP 1MP: Trial Fallout and Denials - Vintage & Reason," November 2015, accessed 1/7/2016; Treasury HAMP data.



- ❑ **SIGTARP Reported:** In New York State, of the 304,696 applications received by big bank servicers since 2009, no more than 30% of those applications were approved for trial modifications under HAMP by July 2015, and even less of that 30% were approved for permanent loan modifications under HAMP (in other words, more than 70% were denied)
- ❑ **NY FEDERAL RESERVE Reported:** Zip codes that are in parts of the 7<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup> Congressional Districts in Brooklyn, New York -- which include a significant number of communities of color (African-American, Hispanic-American, Caribbean-American, Asian-American, and immigrant communities), such as Bedford Stuyvesant, Bushwick, Ocean Hill, Brownsville, East New York, Flatbush, East Flatbush & Crown Heights – rank among the highest foreclosure zip codes in Downstate New York  
**Highlight: the percentage of residential mortgage loans in foreclosure by December 2013 in pockets of neighborhoods and communities climbed to 21%**
- ❑ Nonprofit Legal Service Providers and Private Bar Attorneys representing homeowners in Kings County Reports: **Less than 10% of homeowners have received actual HAMP loan modifications since 2009.**

# New York City: Among Highest Foreclosure Rates in United States

NY FEDERAL RESERVE - 2013



Sources: LP and LPS as of 3/1/2011. See ABOUT THE DATA tab for more information and coverage estimate.

**One in eight (1 in 8) Brooklyn residential mortgages was seriously delinquent or went into foreclosure by December 2013**

**In high foreclosure neighborhoods in Brooklyn for example, the percentage of residential mortgage loans in foreclosure by December 2013 was as high as 21%**

## SIGTARP REPORT OF JAN 27. 2016

### – The HAMP Record Worsens for Homeowners, Even with Servicers' Limited Data, Recordkeeping and Reporting

- ❑ A small percentage of homeowners got accepted, a large percentage of that small percentage “fell out” of the HAMP Program, resulting in further investigation by SIGTARP - SIGTARP's Conclusion:

**Homeowners with permanent modifications are being wrongfully terminated out of HAMP**

**(in other words, they were “kicked out” of HAMP wrongfully)**

- ❑ By December 31, 2015, SIGTARP reports a worrisome increase in those that fell out or got kicked out of the program:
  - ❑ 40% [507,359] “fell out” of the program

**From April 2009 to April 2015:**

- ❖ **5,696,803** homeowners nationwide applied for HAMP, according to the servicers' reporting to Dep't of Treasury BUT:

**Only 22% (1,257,259) received permanent modifications**

- ❖ **Then, even worse, 29.34% of the 22% (that is, 368,901 homeowners) fell out or got kicked out of the program**



# SIGTARP – Homeowners Wrongfully Terminated out of HAMP

- ❑ SIGTARP concluded that in many instances homeowners fell out the HAMP program due to wrongful terminations by HAMP servicers
- ❑ In 2015, six of the seven largest HAMP servicers wrongfully terminated homeowners out of HAMP who were paying their mortgage.
  - ❖ The Treasury identified homeowners who had not defaulted in their HAMP permanent modification payments; yet still, their mortgage loan account was terminated by their HAMP loan servicer wrongfully.
- ❑ Treasury also found that the largest servicers in HAMP are still failing to report complete and timely information about homeowners redefaulting in HAMP, making it even more difficult for Treasury to analyze the extent to which servicer misconduct led to homeowners redefaulting out of HAMP.
  - ❖ Servicers still fail to report complete and timely information about HAMP redefaults to Treasury



- ❑ Treasury’s test results reveal that, within the last year, the following HAMP servicers all claimed that homeowners had redefaulted out of HAMP permanent loan modifications by missing three payments when, in reality, they had not:
  1. Bank of America
  2. CitiMortgage
  3. JP Morgan Chase
  4. Nationstar
  5. Ocwen and
  6. Wells Fargo
  
- ❑ These six mortgage servicers account for 74% of the Non-GSE HAMP modifications (673,039 of the 916,699) funded solely by TARP since the start of the program [that is, subprime loans acquired with bailout funds]
  - ❖ “There has been no solution to this problem from Treasury despite Treasury identifying it repeatedly in its quarterly assessments throughout the year.”



# Servicers' Unreasonable and Inexplicable Delays in Processing HAMP Applications

TABLE 4.8

## MONTHS TO PROCESS OUTSTANDING APPLICATIONS AT MOST RECENT RATE BY SERVICER, AS OF 11/30/2015

Servicer Name	Applications Processed <sup>a</sup>	Total Applications Unprocessed <sup>b</sup>	Months to Process the Homeowners who have already applied <sup>c</sup>
CitiMortgage Inc	1,297	15,699	12.1
Select Portfolio Servicing, Inc.	2,961	23,014	7.8
JPMorgan Chase Bank, NA	3,930	21,296	5.4
Ocwen Loan Servicing, LLC	10,930	46,903	4.3
Wells Fargo Bank, NA	6,974	24,253	3.5
Ditech Financial LLC <sup>d</sup>	724	2,399	3.3
Bank of America, NA	3,876	12,353	3.2
Bayview Loan Servicing, LLC	1,669	4,274	2.6
Specialized Loan Servicing LLC	2,705	3,964	1.5
Nationstar Mortgage LLC	6,451	8,255	1.3
Others	3,162	3,067	1.0
<b>TOTAL</b>	<b>44,679</b>	<b>165,477</b>	

Notes:

<sup>a</sup> Requests Processed in the most recent month, November 2015.

<sup>b</sup> Program-to-Date Requests Received less Program-to-Date Requests Processed. Data subject to ongoing revision by servicers.

<sup>c</sup> Total Applications Unprocessed divided by most recent month's Applications Processed.

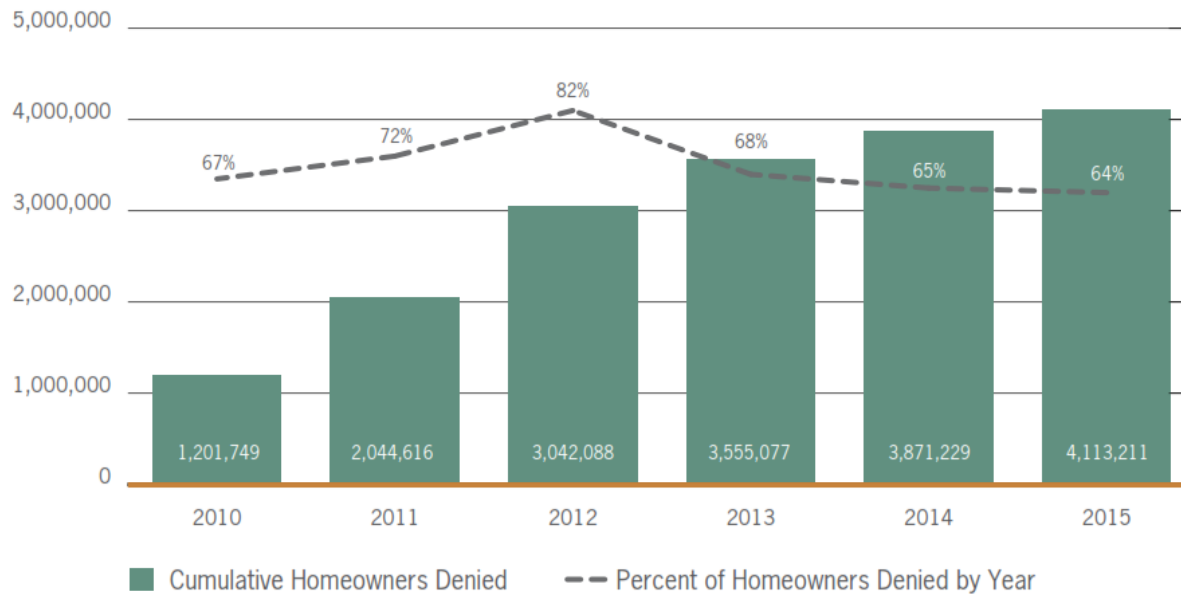
<sup>d</sup> Formerly GreenTree Servicing LLC.

Source: Treasury, "HAMP Application Activity by Servicer," November 2015.

# HAMP Applications Denied by Year – An Incredible Amount!

FIGURE 4.4

HOMEOWNERS WHOSE HAMP APPLICATIONS WERE DENIED, BY YEAR, AS OF NOVEMBER 2015



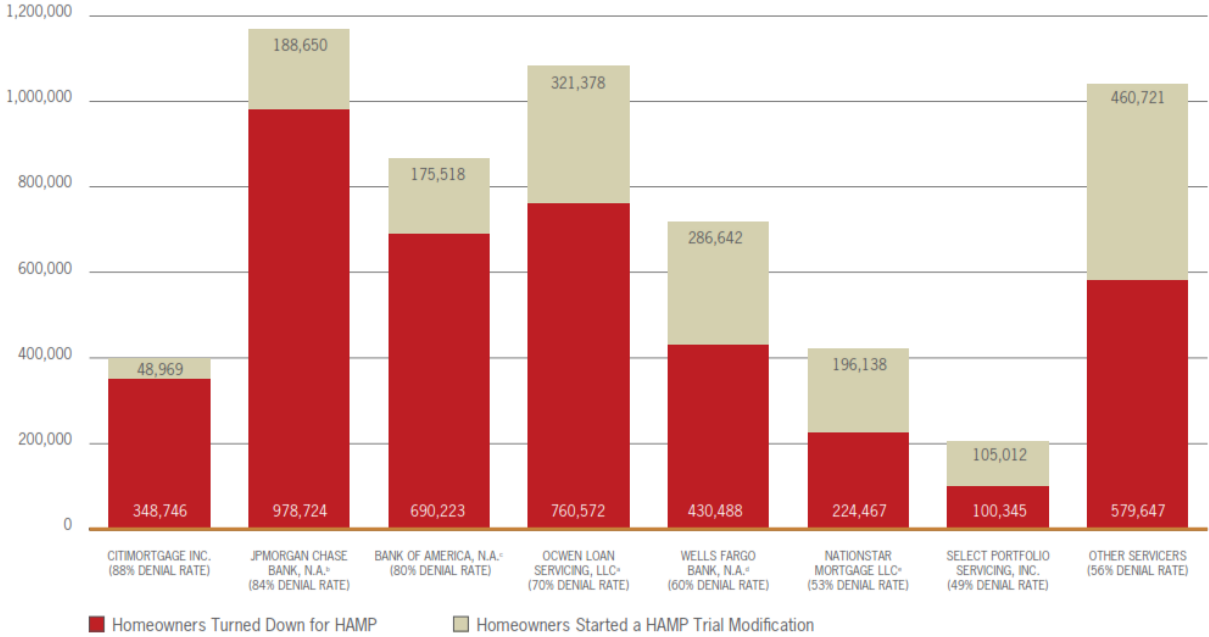
Note: Excludes HAMP denials prior to December 2009. Prior to December 2009 Treasury did not require servicers to report HAMP denials. Also excludes one denial dated March 2016 due to a servicer reporting error.

Source: Treasury, "HAMP IMP: Trial Fallout and Denials - Servicer, Vintage & Reason," November 2015, accessed 1/7/2016; Treasury HAMP Data.

# Homeowners Turned Down by Servicers for HAMP

## [IN RED - Fannie Mae & Freddie Mac Servicers]

FIGURE 4.5  
 HOMEOWNERS DENIED A HAMP TRIAL VS. HOMEOWNERS WHO STARTED A HAMP TRIAL, BY SERVICER, AS OF NOVEMBER 2015



Notes: Excludes HAMP denials and trial starts prior to December 2009. Prior to December 2009 Treasury did not require servicers to report HAMP denials. Excludes denials and trial starts prior to December 2009. Prior to December 2009 Treasury did not require servicers to report on the status of all HAMP applications received.  
<sup>a</sup> Ocwen Loan Servicing, LLC includes the former Litton Loan Servicing, LLC, GMAC Mortgage, LLC, and Homeward Residential.  
<sup>b</sup> JPMorgan Chase Bank, NA includes EMC Mortgage Corporation.  
<sup>c</sup> Bank of America N.A. includes the former Countrywide Home Loans Servicing, BAC Home Loans Servicing LP, Home Loan Services, and Wilshire Credit Corporation.  
<sup>d</sup> Wells Fargo Bank, N.A. includes Wachovia Bank, NA and Wachovia Mortgage, FSB.  
 \* Nationstar Mortgage LLC includes MorEquity, Inc and the former Aurora Loan Services LLC.

Source: Treasury, "HAMP IMP: Trial Fallout and Denials - Servicer, Vintage & Reason," November 2015, accessed 1/7/2016; Treasury HAMP Data.

# ... AND EVICTIONS AND HOMELESS WILL CONTINUE TO RISE

## **SOUNDING THE ALARM – See the Coalition for the Homeless Report 2014-2016 Reports**

- The Coalition for the Homeless informed us that as a result of the widening gap between incomes and rents, **the rate of evictions has increased.**
- 60,296 people spent the night in New York City's homeless shelters in January 2016
- The growing affordability gap also explains why the number of working homeless New Yorkers has risen so dramatically in recent years.



## Rise in Homeless Rate in 2015

- “Homelessness in New York City has reached the highest levels since the Great Depression of the 1930s in recent years.
- “The number of homeless New Yorkers sleeping each night in municipal shelters is now 86 percent higher than it was ten years ago.
- “Research shows that the primary cause of homelessness, particularly among families, is lack of affordable housing.”



- The number of homeless New Yorkers sleeping each night in municipal shelters is now 91 percent higher than it was ten years ago.
- Research shows that the primary cause of homelessness, particularly among families, is lack of affordable housing.
- Surveys of homeless families have identified evictions as one of the major immediate, triggering causes of homelessness, alongside job loss, doubled-up or severely overcrowded housing; domestic violence; and hazardous housing conditions

## **Rent Burn + Rise in Homeless Rate in 2014-2015 Among African American & Latino American Working Families**

- “One in seventeen (1 in 17) African-American children (which is 6.0 percent of New York City’s African-American population under 18 years old) used the shelter system, compared to 1 in 368 white children (0.3 percent).
- “One in 34 (1 in 34) Latino children (2.9% of New York City’s Latino population under 18 years old) used the shelter system, compared to 1 in 368 white children (0.3%).
- “The number of homeless African-American and Latino New Yorkers has grown at an even faster rate (and that these numbers don’t capture the rising homeless rate for veterans and their families).
- “New York City’s children experience homelessness at an alarming rate.
- “The impact of homelessness on African-American children in New York City is particularly dire.
- “Nearly one third of homeless families are working families that earn too little to afford market-rate apartments [in any of the New York City outer boroughs].
- “Thirty percent (30%) of [NYC] renters paid more than half of their income towards rent.
- “More than one-third (33.5 percent) of New York City renters paid more than half of their income towards rent and utilities. “

**See *Coalition for the Homeless Report for FY 2014***

**ALL ABOUT THE MONEY, RECOVERY AND BAILOUT FROM THE  
SUBPRIME MORTGAGE FINANCING SPREE ON WALL STREET  
FOR BANKS AND BOND INVESTORS . . . SINCE 2008**



**BUT NOT FOR BROOKLYN WORKING FAMILIES,  
NOT FOR BROOKLYN COMMUNITIES OF COLOR  
. . . SINCE 2009!**





## MISSION STATEMENT AND CORE VALUES: ©

**The New York State Foreclosure Defense Bar (“NYSFDB”)** is an association of attorneys committed to the development of jurisprudence in the area of foreclosure defense. **NYSFDB shall ensure:** that New York State property owners are afforded the protections provided by the intent, letter and spirit of federal law, the Constitution, statutes and common law of New York State.

**The New York State Foreclosure Defense Bar** is a membership, not-for-profit corporation, with its core values guided by, and grounded in, the Due Process Clause set forth in Article 1, Section 6 of the New York State Constitution. **NYSFDB shall be:** a voice for the promotion of legislation, regulation and policies that encourage and provide incentives for home ownership – that home ownership continues as a vital component of the American dream and economy. The preservation and protection of home ownership helps to maintain viable, stable neighborhoods by ensuring that homeowners have a vested stake in their communities. Through NYSFDB’s mission to protect and promote the legal rights of property owners – **NYSFDB hopes to join in the efforts to stabilize the hardest-hit communities.**

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