



NO  
PLACE  
LIKE

HOME

PHILADELPHIA'S APPROACH  
TO FORECLOSURE PREVENTION

Philadelphia created the foreclosure-prevention approach analyzed in this report in response to a global financial crisis that took American families and neighborhoods by storm. At local, state, and national levels, people have created many models to respond to the new threats to families, neighborhoods, and ultimately local and state budgets.

This report finds that there is much about Philadelphia's foreclosure prevention approach to praise—quick-acting leadership, an impressive participation rate, and the dedication of dozens of individuals and organizations. Philadelphia's Courts, the Mayor's Office, and the Office of Housing and Community Development all demonstrated the ability to lead, innovate, and cooperate. Without their early and continuing efforts, the story in this report and in the city would be much different. At the same time, there are areas where the system could be improved—an increase in coordination among agencies and programs; better outcome tracking; and a conscious, sustained, and coordinated effort to adapt to changing homeowner needs and political realities. By taking the steps recommended in this report, Philadelphia's leaders can make the system more efficient and improve outcomes for homeowners and taxpayers.

These recommendations are all the more important now, as key components of Philadelphia's foreclosure-prevention approach are being threatened by budget cuts. As this report goes to print, the Homeowners' Emergency Mortgage Assistance Program (HEMAP) has stopped taking applications, and federal cuts to the Community Development Block Grant (CDBG) program threaten funding to Philadelphia's foreclosure counselors and legal-aid attorneys. By the time you receive this report, unless significant changes occur, there will only be days left for homeowners to apply for the federal Emergency Homeowners' Loan Program (EHLP) and Pennsylvania's statutory requirement for notice and time to cure a delinquency before a foreclosure can be filed will have been eliminated.

RHLS believes that the success of Philadelphia's foreclosure-prevention approach relies on the continued existence of each of the pieces of the system. We look forward to working with all of you to ensure that the key elements of Philadelphia's foreclosure-prevention approach are preserved and strengthened.



- Mark Schwartz, Esq.  
Regional Housing Legal Services

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decent, safe, and  
affordable housing  
for lower-income  
Pennsylvanians.*

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acknowledge the  
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funding this analysis.*

# NO PLACE LIKE HOME

## Philadelphia's Approach to Foreclosure Prevention

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## EXECUTIVE SUMMARY

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

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

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

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

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

## Philadelphia Prevention Works

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

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

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**ESTIMATED AVERAGE COST TO HELP EACH HOUSEHOLD: \$750**

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

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

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

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

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

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

## Philadelphia Prevention Works

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

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**NUMBER OF PHILADELPHIANS WHO APPLIED FOR HEMAP: 4,756**

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**PHILADELPHIA APPLICATIONS APPROVED FOR HEMAP: 1,025**

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**APPROVAL RATE: 22%**

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**PHILADELPHIA HEMAP LOANS CLOSED: 623**

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

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**LOANS REPAYED STATEWIDE: 85%**

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**HEMAP RECIPIENTS WHO LOSE THEIR HOMES STATEWIDE: <15%**

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**AVERAGE LOAN SIZE STATEWIDE: \$11,000**

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

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

**Philadelphia's foreclosure-prevention approach relies heavily on an established network of 31 housing-counseling agencies, mostly small**

that the city has funded for more than three decades with millions of dollars of federal Community Development Block Grant (CDBG) funds. Housing counselors became the lynchpin of the system, as new and experienced counselors met with thousands of homeowners, devised workout proposals, applied for relevant programs such as HEMAP, and negotiated on behalf of the homeowner in Diversion Court. Lawyers made formal appearances in only 4.5% of cases.

**The success of Philadelphia's foreclosure-prevention approach offers helpful lessons to other jurisdictions.**

The approach is both replicable and scalable in cities that (1) are located within judicial foreclosure states, (2) can identify at-risk homeowners prior to foreclosure, and (3) have a significant housing-counselor capacity. The Diversion Program's emphasis on hundreds of negotiations occurring simultaneously in a courtroom environment offers an approach that can be implemented in cities with significantly higher foreclosure rates. Other jurisdictions will benefit from the study's explanation of what Philadelphia has done well and what Philadelphia can do better to prevent more foreclosures and increase transparency in the process.

**Many stakeholders interviewed for this study recommended improvements that would achieve better foreclosure outcomes for more Philadelphia homeowners.**

Eight priority recommendations are detailed in the report. Many address the need for quality training and performance standards to eliminate significant variation in the advice and level of assistance that different housing counselors provide to similar at-risk homeowners. Other recommendations address the need to provide alternative paths to assist homeowners for whom loan modifications and small bridge loans may not provide a sustainable solution. With a majority of Philadelphia homeowners at relatively low income levels and one in nine foreclosures caused in part by medical costs, one recommendation offers additional tools that can better serve the needs of key populations. Another key recommendation seeks to encourage the independently run Sheriff's Office in Philadelphia—responsible for selling foreclosed properties at sheriff's sale—to cooperate with the courts and other agencies on issues that impact foreclosure, rather than impeding their efforts as it has for the past three years. Finally, there are several recommendations to inject greater transparency, consistency, and accountability into Philadelphia's foreclosure-prevention efforts.

## EIGHT PRIORITY FORECLOSURE- PREVENTION RECOMMENDATIONS FOR PHILADELPHIA

### 1 Offer alternative paths to assistance for homeowners who face foreclosure for reasons other than defective or excessive loan terms.

*Recommended actions to increase access to other programs that can preserve homeownership:*

- Work with nonprofits to bring their resources to homeowners at risk of foreclosure.
- Publish a comprehensive list of government-funded programs and services available to existing at-risk homeowners.
- Create a uniform application for all city-run programs aimed at homeowners.

### 2 Provide housing counselors with training, certification, and performance standards to ensure quality, consistent service.

*The city has already replaced its trainer, improved its training program, and mandated certification. In addition, the city should professionalize housing counseling by taking these actions:*

- Adopt and enforce consistent housing-counselor standards and guidelines that require an explanation of all alternatives and a written plan for each homeowner.
- Fund a senior counselor to coach inexperienced counselors to ensure that no one is “learning on the job” at the expense of a homeowner.
- Create two job levels for housing counselors based on skills and experience.
- Collect and use data to monitor case outcomes.
- Include and enforce performance metrics in contracts with housing-counseling agencies.

### 3 Take action to ensure that all housing counselors apply to state HEMAP and federal EHLF for eligible homeowners.

*Recommended actions to increase HEMAP and EHLF applications and loan-approval rates from Philadelphia:*

- Monitor HEMAP and EHLF applications and approval rates for each housing-counseling agency and provide additional training where needed.
- Encourage housing counselors to utilize Regional Housing Legal Services’s HEMAP Help Center to improve application quality.
- Work with PHFA to develop a streamlined online application for HEMAP and EHLF.
- Compensate city-funded counseling agencies that complete HEMAP and EHLF applications for clients at the same rate as state-funded agencies.

#### **4 Improve coordination between state- and city-funded housing counselors so all can participate in relevant programs.**

*Recommended actions to integrate state and city housing-counseling networks:*

- Extend PHFA financial incentives for HEMAP applications to city housing-counseling agencies.
- Allow PHFA-funded counseling agencies to participate in Diversion Court.
- Jointly adopt a national database and share data to avoid duplicative data entry.

#### **5 Create and utilize referral and intake criteria for cases that would most benefit from legal representation.**

*Recommended actions to most effectively use limited legal resources:*

- Connect legal services and volunteer attorneys with housing counselors to establish guidelines for a better working relationship.
- Provide clear guidance on when a foreclosure case should be referred to an attorney.
- Encourage legal service firms to share case-selection criteria with housing counselors to dispel any perception that their clients are not fairly afforded legal assistance.
- Create an information-sharing agreement to allow lawyers to update housing counselors on case progress regularly.

#### **6 Improve data collection and provide accurate, up-to-date information to the city, homeowners, and foreclosure-prevention professionals.**

*Recommended actions to improve data collection and provide key information to stakeholders:*

- Update housing-counselor database to include actions taken and outcomes for each case.
- Continue to invest in new technology for legal services firms to allow accurate data collection.
- Continue to track homeowner outcomes.

#### **7 Take action to encourage the Sheriff's Office to cooperate with the courts' and city's efforts to prevent foreclosure.**

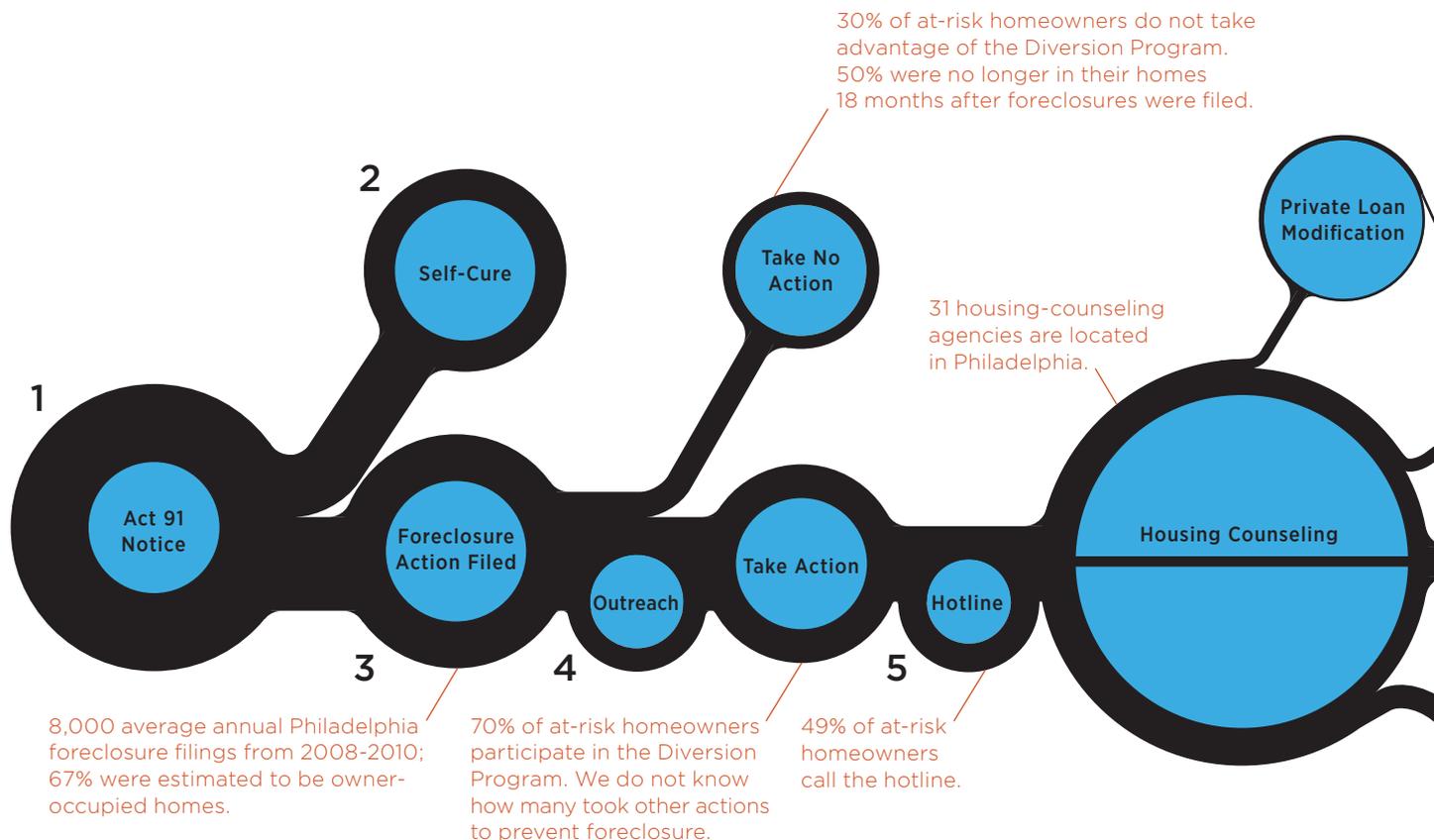
*Recommended actions for the sheriff that will assist the city's foreclosure prevention efforts:*

- Reduce \$1700 fee imposed on each homeowner for a sheriff's sale.
- Stay foreclosures based on court orders communicated electronically.
- Return all sales proceeds exceeding taxes, utilities, and liens to the homeowner promptly.
- Update and modernize database to improve accuracy and allow for sharing of data.
- Provide writs with outcomes of sheriff's sales to the courts in a timely manner.

#### **8 Implement proposed reforms and fund foreclosure prevention to avoid millions of dollars in costs to the city.**

*Recommended actions:*

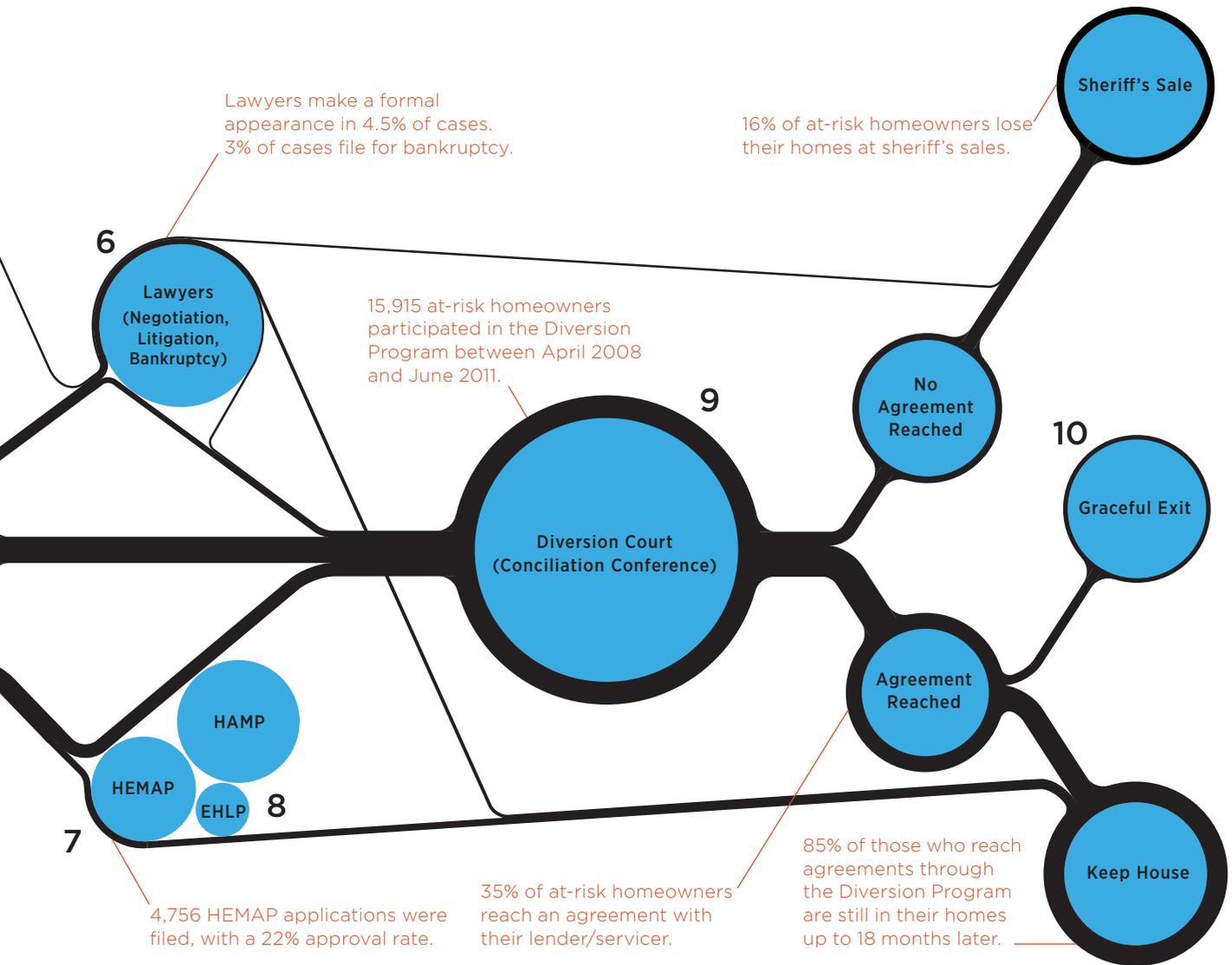
- Implement the eight recommendations in this report.
- Continue funding the foreclosure-prevention system until foreclosure rates return to 2006 levels.



## Philadelphia's CURRENT HOME FORECLOSURE- PREVENTION PROCESS

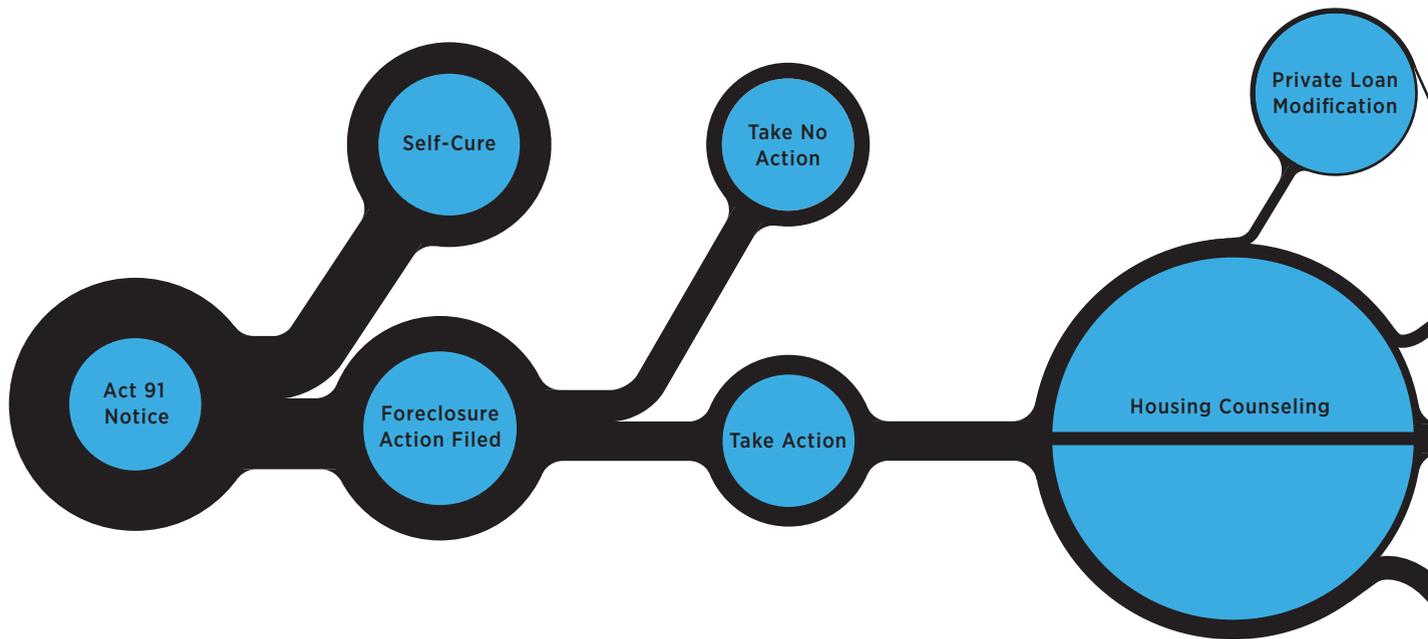
**1 Act 91 Notice:** Sent by lender after 60-day delinquency. If FHA Mortgage Loan, Act 6 notice sent instead and not eligible for HEMAP. **2 Self-Cure:** Homeowners may self-cure their delinquency at any stage. **3 Foreclosure Action Filed:** Court of Common Pleas schedules a mandatory Conciliation Conference in Diversion Court between owner and lender. **4 Outreach:** Outreach workers knock on doors of at-risk homeowners to inform them of Diversion Court and other resources. **5 Hotline:** Save Your Home Philly Hotline, staffed by Philadelphia Legal Assistance, had 7,464 at-risk

**!**  
*Line thicknesses reflect best estimates of the number of at-risk homeowners who participate in each part of the process.*



*Numerical data relating to the Diversion Program provided by Philadelphia Residential Mortgage Foreclosure Diversion Program: Initial Report of Findings, The Reinvestment Fund (June 2011).*

homeowners call from April 2008 to June 2010. **6** Lawyers: 50% represented by Legal Services attorneys and 50% by private attorneys. **7** HEMAP: Application stays process. **8** EHL P/HAMP: Federal foreclosure prevention programs. **9** Diversion Court: An average of two conferences are held per homeowner over an average of 54 days. No order to sell the property can be issued until court-mandated meeting of the parties. **10** Graceful Exit: An agreement results in homeowners losing their home but receiving extra time or money to relocate (i.e., cash for keys, short sale).

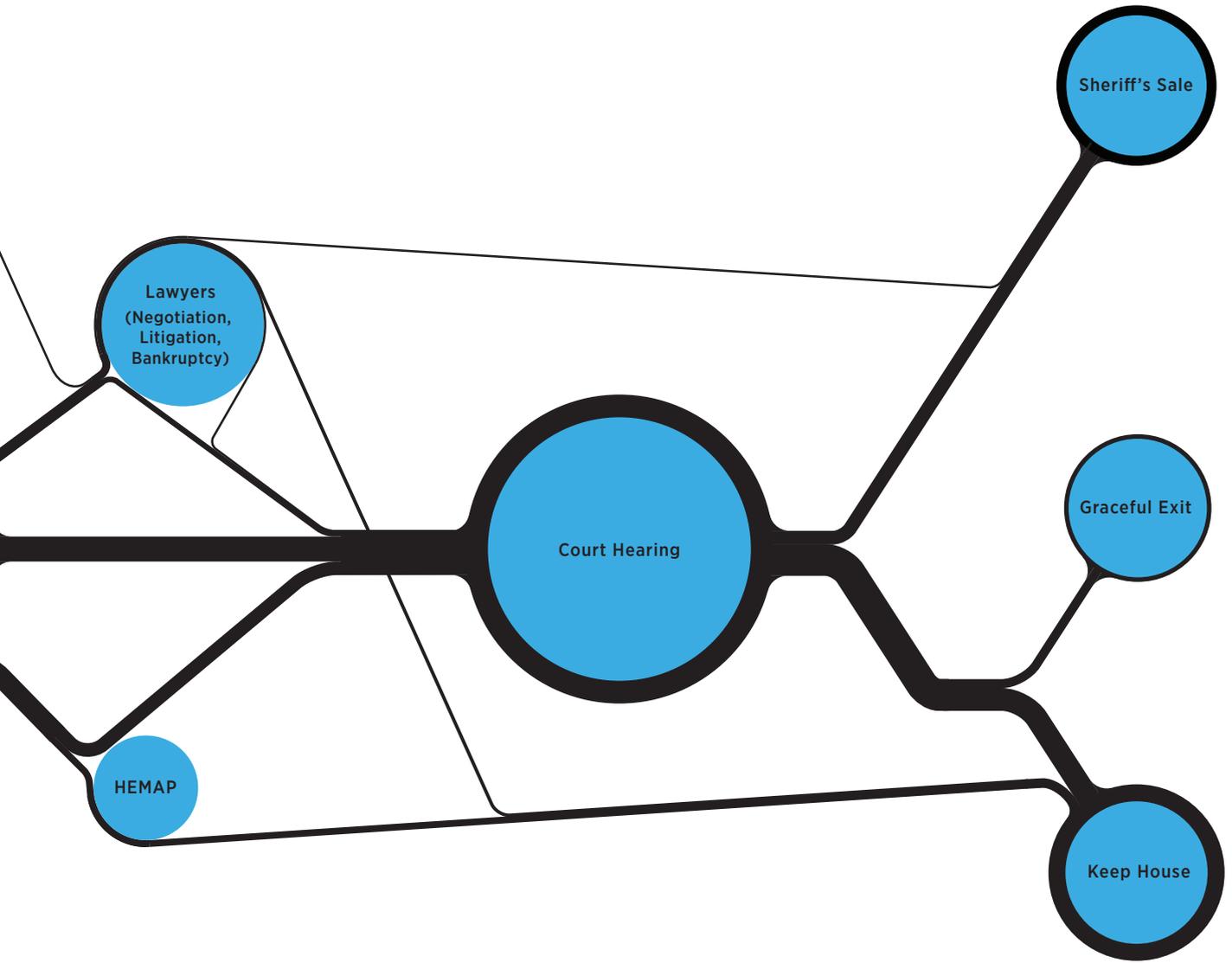


## Philadelphia's PRE-2008 HOME FORECLOSURE- PREVENTION PROCESS

Prior to the Diversion Program, Philadelphia's at-risk homeowners received an Act 91 Notice and then had the option of either seeking out a housing counselor to apply to HEMAP or negotiate an agreement, or hiring a lawyer to negotiate an agreement, litigate or file for bankruptcy. In the year before the Diversion Program was established, 27% of Philadelphia at-risk homeowners lost their homes, over 10% more than a year later, when homeowners routinely received outreach, hotline, and housing-counseling services and were scheduled for mandatory conciliation conferences in Diversion Court.



*Line thicknesses reflect best estimates of the number of at-risk homeowners who participate in each part of the process.*



# PHILADELPHIA'S FORECLOSURE- PREVENTION APPROACH: HOW IT WORKS

**Philadelphia created an innovative foreclosure-prevention strategy in Spring 2008 that integrated old and new programs and utilized state, city, court, and nonprofit resources.** Its goals were to alert homeowners to existing foreclosure-assistance programs, to ensure that homeowners have the opportunity to sit down with the lender/servicer<sup>1</sup> and negotiate a loan modification, and to offer loans when appropriate.

**Before April 2008, Pennsylvania law provided a Philadelphia homeowner at risk of foreclosure with notice, some legal protections, and access to a HEMAP bridge loan.** An at-risk homeowner received an Act 91 notice informing them of the risk of foreclosure when they became 60 days delinquent.<sup>2</sup> This notice also informed homeowners of their right to apply for a bridge loan to pay past delinquency or to cover their loan payments for up to 36 months under Pennsylvania's Homeowner's Emergency Mortgage Assistance Program (HEMAP). Early notice allowed thousands of Pennsylvania homeowners to cure their delinquency or to file a HEMAP application that would stay foreclosure proceedings until their application was approved or denied. If denied for HEMAP or if no application was filed with the state, homeowners in this judicial-foreclosure state were also entitled to be heard in court before losing their home at a sheriff's sale. (See graphic on pages 9 to 10.)

**In April 2008, the Court of Common Pleas and the city added additional supports for Philadelphia homeowners using the court's case-management authority.** The Court of Common Pleas ordered that the homeowner and lender/servicer must meet in a court-supervised setting and attempt to negotiate an agreement that will allow the homeowner to keep their home or to obtain a graceful exit from their house with fewer negative consequences.<sup>3</sup> The city provided each homeowner with access to a free housing counselor to assist them with workout plans, negotiations, and applications to relevant programs. In a small percentage of cases, the homeowner was offered legal assistance as well. The city also offered a telephone hotline and extensive outreach to homeowners. (See graphic on pages 7 to 8.)

*1 The mortgage company/lender is a bank, thrift, or mortgage banker that originated the loan. The servicer is the company that collects monthly payments from the borrower and passes them to the lender or the investors in the mortgage pool.*

*2 If the homeowner has an FHA mortgage, an Act 6 Notice will be sent instead of an Act 91 Notice, and HEMAP is not available.*

*3 "Graceful exit" is a term used by the court to describe a series of actions that a homeowner can take in response to the threat of foreclosure to voluntarily leave their house in return for a full elimination of debt and delinquency. Examples of graceful exits include a short sale, when the owner sells the home and uses the proceeds to pay off the mortgage; a deed in lieu of foreclosure, when a homeowner transfers ownership to the lender directly; or cash for keys, when the lender pays the owner \$1,000 or more to leave the home promptly and in good condition.*

4 July 13, 2011 e-mail  
from Daryl Rotz,  
Pennsylvania Housing  
Finance Agency

**Philadelphia’s foreclosure-prevention efforts are designed to help homeowners at risk of foreclosure access a series of programs and services.** There are six major components of the city’s foreclosure-prevention strategy—four of which rely heavily upon housing counselors.

- 1 City-funded nonprofits reach out to at-risk homeowners and educate them about options (*i.e., knocking at doors, making public-service announcements*).
- 2 Homeowners are encouraged to call the hotline for information and a referral to a counselor or lawyer.
- 3 Housing counselors meet face to face with homeowners to review budgets and create a workout proposal for the lender.
- 4 Housing counselors identify and apply for applicable federal, state, and local assistance programs for their clients.
- 5 Housing counselors negotiate with lender/servicer at court-supervised conciliation conference to determine whether an agreement can be reached.
- 6 Housing counselors refer homeowners to lawyers when appropriate. (*If they pursue litigation, homeowners cannot continue in Diversion Program.*)

After these steps are completed, the house may be sold at a sheriff’s sale by court order when (1) no agreement has been reached between the parties that will allow the homeowner to remain in the home and (2) a HEMAP application, if filed, is either approved or denied.

**The three programs that housing counselors most frequently utilized for their clients from 2008 to 2011** were Pennsylvania Homeowner’s Emergency Mortgage Assistance Program (HEMAP), a decades-old bridge-loan program to help families pay past delinquency and cover loan payments for up to 36 months; the Philadelphia Diversion Program, with court-supervised negotiation; and the far less effective federal Home Affordable Modification Program (HAMP). About 4.5% of homeowners in the Diversion Program were also represented by attorneys, and a small number pursued litigation. In Spring 2011, the federal Emergency Homeowners’ Loan Program (EHLA) was introduced in Pennsylvania, with \$105 million available to loan to Pennsylvania homeowners having difficulty with paying their mortgages, and with a September 30, 2011 deadline for all funds to be committed. As of July 15, 2011, \$8.8 million of this money has been committed for loans to 270 Philadelphia at-risk homeowners, with a total of \$28.6 million in loans committed statewide.<sup>4</sup>

## THE PHILADELPHIA DIVERSION PROGRAM: HOW IT WORKS

**The Philadelphia Diversion Program is a mandatory program established by the Court of Common Pleas based upon its authority to adjudicate foreclosure cases.** In April 2008, the Philadelphia Court of Common Pleas created the Diversion Program pilot and its mandatory-negotiation requirement in response to a proposed moratorium on sheriff's sales.<sup>5</sup> When local foreclosure rates increased dramatically in 2008, the Philadelphia sheriff, responsible for selling foreclosed properties at auction, announced that he was going to seek a moratorium on sheriff sales. The Philadelphia Common Pleas Court refused to use its legal authority to call a moratorium and instead reformed the judicial-foreclosure process by creating a pilot Diversion Program.

**President Judge Darnell Jones and Judge Annette Rizzo of the Court of Common Pleas announced the creation of the Philadelphia Residential Mortgage Foreclosure Diversion Program Pilot just seven weeks after the threatened moratorium.** The Diversion Program created a mandatory opportunity for homeowners facing foreclosure on their primary residences to meet face to face with their lenders/servicers to share information and ideally to come to agreements that would allow homeowners the chance to stay in their homes.<sup>6</sup> Under the program, all at-risk homeowners were offered the services of a free housing counselor and, in some situations, a lawyer as well.

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***A recent national study by the Urban Institute found that borrowers who worked with housing counselors reduced their monthly payments by an average of \$267 more than they would have without counseling.***

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*5 On April 16, 2008, the Philadelphia Court of Common Pleas created the Residential Mortgage Foreclosure Diversion Pilot Program by General Court Regulation No. 2008-01.*

*6 At the start of the program, a homeowner had the responsibility to take affirmative action to request a conciliation conference and prove that their home was owner-occupied. Once these "day backward" cases for which the sheriff's sale was already scheduled were heard by the court, all foreclosure proceedings after July 2008 were automatically scheduled for a mandatory conciliation conference within 45 days of the filing of a complaint by the lender/servicer.*

*7 While the JPTs can not compel a lender or servicer to grant a loan modification, they have the power to stay foreclosure action and the ability to ask questions of the parties that may reveal a reasonable solution. Either party could ask for the intervention of the JPT, although they were typically called in by homeowners. Interestingly, coming before a JPT often meant that both parties had to wait until 4 or 5 p.m. to have one assigned. Neither party wished to stay that late.*

**Unlike in traditional mediation, which handles each individual case separately, the sheer size of the court’s caseload required an environment in which hundreds of cases could be negotiated in a single day.** First several days a week and now each Thursday, homeowners, counselors, volunteer attorneys, and lenders’ attorneys fill Courtroom 676 on the sixth floor of City Hall and negotiate mortgage loan agreements in an environment that resembles the New York Stock Exchange trading floor more than the solemn environment traditional for the courts. Typically, homeowners wait in a seating area while housing counselors approach lender/servicer’s attorneys with proposals. Attorneys must then contact their clients by phone to discuss proposals with someone with authority to accept or reject loan modifications. Lenders/servicers are required to have this person with authority available all day on Thursdays. There is no mandate that the lender/servicer agree to modify the terms of the mortgage. If an agreement cannot be reached, the homeowner or the lender/servicer’s attorney may ask Judge Rizzo or one of several Judge Pro Tems (JPTs) appointed by Judge Rizzo to try to facilitate negotiations. The vast majority of negotiations take place without any involvement of the judge or JPTs.<sup>7</sup>

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**“Our mission here in Philadelphia is simple—early intervention on the legal path to foreclosure and ultimate sale of owner-occupied residences with the hope that homes may be saved—one address at a time!”**

**- Judge Annette Rizzo**

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**With a pilot program in place, the mayor and the City Office of Housing and Community Development stepped in with all the supports needed to ensure the program’s success.** The city reached out to at-risk homeowners and provided each with a free housing counselor, who not only represented them at Diversion Court but also connected them with available state and federal foreclosure-prevention programs. The city enlisted 17 Neighborhood Advisory Committees (NACs), which received annual funding to perform door-to-door outreach for at-risk homeowners without additional compensation. The city quickly repurposed Philadelphia Legal Assistance’s predatory-lending hotline, “Don’t Borrow Trouble Hotline,” into the “Save Your Home Philly Hotline” to give homeowners a place to call for advice

and for the opportunity to make appointments with housing counselors. The city achieved a 70% participation rate, very high compared to other mediation programs. For instance, the opt-in mediation foreclosure-prevention program in Cleveland (Cuyahoga County, Ohio) had 30% participation.<sup>8</sup> The city called upon its network of 31 housing-counseling agencies, mostly small, that it has funded annually for over three decades, encouraged them to make new hires to increase capacity, and offered additional training in default and delinquency counseling. Philadelphia also funded its two well-respected legal services firms and a volunteer lawyer program in an effort to help as many homeowners as possible keep their homes.

**In early 2011, the court refined the Diversion Court process** by automatically continuing first conferences when the parties were not ready to proceed and by extending the length of time a homeowner remains under the jurisdiction of Diversion Court—until a final agreement has been signed.<sup>9</sup>

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(Approximately 3,900 homeowners; agreements may not allow them to keep their homes.)

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**AVERAGE NUMBER OF CONCILIATION CONFERENCES REQUIRED: 2**

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**AVERAGE TIME SPENT IN DIVERSION PROGRAM: 54 DAYS**

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

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<sup>8</sup> Kathryn W. Hexter, *Foreclosure Mediation Workshop to Discuss Emerging Practices and Research Presentation*, Levin College of Urban Affairs (March 7, 2011)

<sup>9</sup> In the past, a lender/servicer's representation to the court that an agreement was reached pushed the case out of Diversion Court. In many cases, however, these agreements were not finalized on the agreed-upon terms. Extending the time for which homeowners have access to the court ensures that durable agreements are finalized and ready to be implemented.

<sup>10</sup> Philadelphia Residential Mortgage Foreclosure Diversion Program: Initial Report of Findings, a study by The Reinvestment Fund of the Philadelphia Residential Mortgage Foreclosure Diversion Program (June 2011). [http://trfund.com/resource/downloads/policypubs/Foreclosure\\_Diversion\\_Initial\\_Report.pdf](http://trfund.com/resource/downloads/policypubs/Foreclosure_Diversion_Initial_Report.pdf)

<sup>11</sup> *Ibid.* The estimated average costs were created by Regional Housing Legal Services based upon data provided in the TRF study. The raw numbers in parentheses were provided by Ira Goldstein in an email on July 14, 2011.

**12** *There are no income restrictions for borrowers who wish to participate in this program. FHA loans, however, fall outside of HEMAP. An FHA loan is a federal-assistance mortgage loan insured by the Federal Housing Administration. The loan may be issued by federally-qualified lenders and typically is designed to assist borrowers unable to get the approval necessary for conventional home loans.*

**13** *Help for Unemployed Borrowers: Lessons from the Pennsylvania Homeowners' Emergency Mortgage Assistance Program. James Orr, John Sporn, Joseph Tracy, and Junfeng Huan, Federal Reserve Bank of New York, Current Issues in Economics and Finance, Volume 17, Number 2 (2011), [www.newyorkfed.org/research/current\\_issues/ci17-2.pdf](http://www.newyorkfed.org/research/current_issues/ci17-2.pdf)*

## HEMAP: HOW IT WORKS

**Pennsylvania's HEMAP bridge-loan program was created to help unemployed homeowners keep their homes during up to three years of unemployment.** The Pennsylvania General Assembly established the Homeowners' Emergency Mortgage Assistance Program (HEMAP) in December 1983 in response to job losses in the steel and coal industries. HEMAP's purpose is to prevent residential-mortgage foreclosures that result from defaults in mortgage payments caused by circumstances beyond a homeowner's control, such as loss of job, serious medical condition, death or disability of another person who contributed to household income, and divorce or legal separation. The filing of a HEMAP application automatically stays the filing of a complaint for foreclosure until the application for a loan is granted or denied (for an average of 46 to 100 days), giving the homeowner time to explore options.

**To qualify for a continuing or single-payment HEMAP loan, owners must demonstrate a reasonable prospect of being able to resume regular mortgage payments and have a favorable mortgage credit history over the previous five years (with the exception of the current mortgage delinquency).**<sup>12</sup> Twenty percent of total HEMAP loans are continuing loans that pay the homeowner's mortgage payments for up to a maximum of 36 months and \$60,000. The other 80% of HEMAP loans offer a one-time loan designed to pay all outstanding delinquent payments and bring residential-mortgage loans current.

**The Federal Reserve Bank of New York found that the HEMAP “program has helped most participants retain their homes while paying off their loans—at a potentially lower cost than that of other relief initiatives”—** about \$1,600 per case, compared to about \$13,600 for the federal HAMP program.<sup>13</sup> Over 85% of HEMAP loans are fully repaid to the state. Average loans total \$11,000. In May 2011, Moody's found that the HEMAP program is “credit positive” for PHFA, helping to strengthen PHFA's loan portfolio and its bond program.

## Philadelphia Prevention Works

*Data from the Pennsylvania HEMAP Program (April 2008 to July 2010)*<sup>14</sup>

**NUMBER OF PHILADELPHIANS WHO APPLIED FOR HEMAP: 4,756**

**PHILADELPHIA APPLICATIONS APPROVED FOR HEMAP: 1,025**

**PHILADELPHIA HEMAP LOANS CLOSED: 623**

**APPROVAL RATE: 22%**

**AVERAGE COST TO HELP EACH HOUSEHOLD STATEWIDE: \$1,600**<sup>15</sup>

**LOANS REPAYED STATEWIDE: 85%**

**HEMAP RECIPIENTS WHO LOSE THEIR HOMES STATEWIDE: <15%**

**AVERAGE LOAN SIZE STATEWIDE: \$11,000**

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

## HAMP AND EHLP PROGRAMS: HOW THEY WORK

The federal government has introduced two foreclosure-prevention programs for which the impact in Philadelphia is largely unknown. The federal Home Affordable Modification Program (HAMP), introduced in April 2009, impacted Philadelphia because it reset the standard for negotiations of loan modifications. Nationally, HAMP performance has been monitored in detail and shows limited success in achieving permanent loan modifications.<sup>16</sup> While local data is unavailable, stakeholders agree that relatively few permanent HAMP modifications were achieved in Philadelphia. The Emergency Homeowners' Loan Program (EHLP) was introduced in Spring 2011 in Pennsylvania, and its impact is as yet unknown. As of July 2011, EHLP had committed almost \$9 million to Philadelphia homeowners. EHLP was modeled on HEMAP, but a six-month deadline to commit over \$100 million in federal loan funds in Pennsylvania poses a significant challenge.

**HAMP:** The \$75 billion federal HAMP foreclosure-prevention program provides incentives—and cash—for lenders/servicers to alter mortgage terms so that borrowers' monthly payments are reduced to no more than 31% of their pre-tax

<sup>14</sup> Data provided by Daryl Rotz, Director of HEMAP at the Pennsylvania Housing Finance Agency

<sup>15</sup> *Help for Unemployed Borrowers: Lessons from the Pennsylvania Homeowners' Emergency Mortgage Assistance Program.* James Orr, John Sporn, Joseph Tracy, and Junfeng Huan, Federal Reserve Bank of New York, *Current Issues in Economics and Finance*, Volume 17, Number 2 (2011), [www.newyorkfed.org/research/current\\_issues/ci17-2.pdf](http://www.newyorkfed.org/research/current_issues/ci17-2.pdf)

<sup>16</sup> OCC and OTS *Mortgage Metrics Report: Disclosure of National Bank and Federal Thrift Mortgage Loan Data, First Quarter 2010, Office of the Comptroller of the Currency Office of Thrift Supervision, Washington, D.C. (June 2010),* [www.occ.treas.gov/ftp/release/2010-69a.pdf](http://www.occ.treas.gov/ftp/release/2010-69a.pdf)

*17 Homeowners are eligible for EHLF if they have lost at least 15% of income, have missed at least three mortgage payments due to job loss or illness, are at or below 12% of area median income, and are likely to start making payments within two years.*

income. Prior to HAMP's launch in April 2009, there was no standard in Philadelphia for what a modified loan should look like. After HAMP was put in place, as Ira Goldstein from The Reinvestment Fund stated, its federally imposed loan modification standards "became the floor and the ceiling for negotiated agreements in the Diversion Program." For example, at the beginning of the Diversion Program, Beth Goodell, a well-respected Community Legal Services attorney, handed out an information sheet to housing counselors describing the kinds of settlements that she had been able to achieve for her clients. Many of these settlements included significant reductions in loan principal. Once HAMP became the federal standard for workouts, however, principal reductions became rare or nonexistent. Interest-rate reductions and term extensions were the primary modifications authorized.

HAMP standards pleased some housing counselors, who found it helpful to begin negotiations with a presumption that the clients should be paying no more than 31% of income on mortgage expenses. They welcomed the opportunity to obtain 2% interest rates for their clients when 5% had been the norm. Other counselors were displeased because the standard made lenders/servicers less willing to agree to creative, individualized solutions and removed the possibility of achieving principal reductions. Most counselors and lawyers also found it difficult to keep up with changes to HAMP procedures made almost weekly, as the federal government attempted to refine the program and improve its effectiveness.

**EHLF:** The Emergency Homeowners' Loan Program (EHLF) is modeled on HEMAP, but with some very significant differences. Its loans can become grants after a certain number of years, homeowners are not eligible if they are back on their feet and only need help paying off past delinquency, and the program will last only six months, placing significant pressure on Pennsylvania to commit \$105 million in loans between April and September 2011. EHLF offers a declining-balance, deferred-payment bridge loan with zero interest for up to \$50,000 to assist eligible homeowners with payments of arrearages, including delinquent taxes and insurance, and up to 24 months of monthly payments on their mortgage principal, interest, mortgage-insurance premiums, taxes, and hazard insurance.<sup>17</sup> At the time of the writing of this report, counselors in Philadelphia have received training and are being encouraged by the city and the court to take advantage of this program for their clients.

## LITIGATION: HOW IT WORKS

**Litigation is an option for only a small number of Philadelphia households due to few private lawyers being willing to take cases and to a limited number of volunteer and legal services attorneys.** In addition to trying to fend off foreclosure with loans and modifications, some Philadelphia borrowers are able to litigate their cases with the assistance of attorneys. Fewer than 5% of homeowners involved in the Diversion Program retained a lawyer who entered a formal appearance in court. While it is fair to assume that every homeowner who chose to pursue litigation is included within this number, some homeowners retained a lawyer to negotiate an agreement or provide legal advice, and the lawyer did not make a formal appearance. The relatively small number of homeowners who pursued litigation is noteworthy and can be explained by the fact that homeowners had alternative paths through which to negotiate an agreement and that they had access to a limited number of lawyers willing to litigate foreclosure cases on behalf of the homeowner. In Philadelphia there is virtually no private bar that specializes in representing homeowners facing foreclosure due to the difficulty of creating a profitable practice in this area. The publicly funded bar at Philadelphia's well-respected Community Legal Services (CLS), Philadelphia Legal Assistance (PLA), and Philadelphia VIP is limited due to resource constraints, so they are able to take only a small percentage of eligible cases. That said, these legal services firms have made limited-representation services available to over 2,000 at-risk homeowners. According to reports issued by each of the three agencies, volunteer lawyers with Philadelphia VIP advised 1,554 homeowners from April 2008 to October 2010, the majority on the day of their Diversion Court conference.<sup>18</sup> CLS has touched 230 cases, providing some level of advice or information between April 1, 2008 and September 17, 2010.<sup>19</sup> PLA had touched 282 cases by December 2010.<sup>20</sup>

Two features of the cases themselves have further limited the number of cases a lawyer may address. First, no legal defenses have arisen that allow lawyers to bring and resolve multiple cases at once, such as a class action. Each case must be tried on its own merits, and the legal defenses are largely very technical in nature, involving proof of proper transfer of ownership of the loan or compliance with servicing requirements.<sup>21</sup> Second, contested cases are taking a year or two years to resolve because the lenders'/servicers' attorneys are focusing upon the uncontested cases.

<sup>18</sup> Philadelphia VIP data on Diversion Program PowerPoint provided on November 10, 2010

<sup>19</sup> Memorandum entitled *Analysis of CLS's Outcomes in Mortgage Foreclosure Defense Cases*, dated December 3, 2010, by Beth Goodell, managing attorney and Steve Buvel, supervising attorney, Community Legal Services, Inc.

<sup>20</sup> Memorandum from Irwin Trauss and Jonathan Pyle entitled *Analysis Of Outcomes and Activities in Diversion Cases Involving PLA Attorneys*, dated December 6, 2010

<sup>21</sup> These technical defenses of unproven ownership or faulty assignment have had limited success in blocking foreclosures. In October 2010, however, many national lenders admitted that affidavits attesting to ownership of mortgage loans had been routinely signed without the signatory reviewing the documents to verify their accuracy. As a result, many foreclosure actions will be delayed while lenders fix these practices.

*22 Memorandum entitled Analysis of CLS's Outcomes in Mortgage Foreclosure Defense Cases, dated December 3, 2010, by Beth Goodell, managing attorney and Steve Buvel, supervising attorney, Community Legal Services, Inc. A dismissal of foreclosure auction does not eliminate the default. In some of these cases, CLS continued to represent the homeowner in an ongoing dispute with the mortgage company, while in others, CLS's representation ends at this point and the house will quite possibly go to sheriff's sale in the future.*

*23 Memorandum from Irwin Trauss and Jonathan Pyle entitled Analysis Of Outcomes and Activities in Diversion Cases Involving PLA Attorneys, dated December 6, 2010*

**There is limited data to date as to whether legal representation results in a better final outcome for the client.** There is some admittedly imperfect data that CLS and PLA have analyzed themselves that sheds some light on the outcomes of cases in which legal representation is provided. An analysis by CLS found that of the 230 mortgage foreclosure cases between April 1, 2008 and September 17, 2010 that participated via CLS in the Diversion Program, 117 have been closed or are ready to be closed, and 113 are ongoing cases. Of the cases closed, 73% resulted in a settlement agreement or a dismissal of the foreclosure action.<sup>22</sup> Only 5% went to sheriff's sale. PLA represented 282 foreclosure clients during this same period, and in just under 5% of cases, the house was sold at sheriff's sale. Forty-eight percent of cases resulted in a settlement agreement or a dismissal of the foreclosure action.<sup>23</sup> Given that PLA is often the place of last resort for the most difficult foreclosure cases, the number of successful outcomes is notable. Volunteer attorneys trained for less than a day by the well-respected Philadelphia VIP supplied continuing representation after the conciliation conference to 405 cases that were closed between June 2008 and October 2010. They saved homes in about 49% of cases.

## EIGHT PRIORITY FORECLOSURE- PREVENTION RECOMMENDATIONS FOR PHILADELPHIA

**Philadelphia moved faster than virtually any other city to create new foreclosure-prevention tools and to fund professionals to support at-risk homeowners.** Philadelphia's efforts required unprecedented cooperation between the Court of Common Pleas, city departments, and quasi-governmental agencies. With speedy implementation being the most important goal, Philadelphia did not attempt to establish a fully integrated foreclosure-prevention system. Rather, the city worked to coordinate existing resources, enlisting city-funded community outreach workers, housing counselors, and legal services attorneys to provide support to homeowners in need. Today, Philadelphia remains on the front lines, looking for ways to refine and improve its strategy. The eight recommendations that follow on pages 21 to 55 have the potential to reach new populations with assistance, to increase consistency and transparency, and to make more effective use of shrinking fund resources for Community Development Block Grants and housing counseling.

# 1

**Offer alternative paths to assistance for**

# **HOMEOWNERS**

who face foreclosure for reasons other than defective or excessive loan terms.

Recommended actions to increase access to other related programs that can preserve homeownership:

## **WORK**

with nonprofits to bring their resources to homeowners at risk of foreclosure.

## **PUBLISH**

a comprehensive list of government-funded programs and services available to existing at-risk homeowners.

## **CREATE**

a uniform application for all city-run programs aimed at homeowners.

**24** A Pennsylvania Association of Realtors survey of 500 state residents in June 2010 found that of those residents who faced foreclosure action in the 12-month period ending in June, 57% had a household member who had lost a job in the year before the foreclosure, and 47% faced unanticipated medical expenses. Only 14% of households included in the study had subprime financing; 12 percent had adjustable-rate loans. 41% had conventional mortgages. *Thea Hocker, Job Loss and Medical Bills Top Factors Contributing to PA Foreclosures, PA Association of Realtors (August 4, 2010), <http://www.parjustlisted.com/archives/5080>*

**25** Data provided by Philadelphia VIP on December 11, 2010

**26** A 2009 study of homeowners facing foreclosure who sought help at the city's largest housing-counseling agency, Consumer Credit Counseling Service of Delaware Valley, found that medical issues were the primary cause for 8.6% of families; 29.2% had medical bills in excess of \$1000 that were not covered by insurance. *Pollack, CE, Lynch, J., Health Status of People Undergoing Foreclosure in the Philadelphia Region, Am J Public Health. 2009;99 (10):1833-1839.*

**For many Philadelphians, homeownership is at risk for a number of reasons, not just an unaffordable mortgage.** Soon after 2008 and 2009, when the Philadelphia Diversion Program and Federal HAMP were launched, the population facing foreclosure dramatically changed. No longer were the majority of at-risk homeowners holding subprime loans with unexpected balloon payments or predatory loan terms. Rather than unfair loan terms, the second wave of foreclosures were most often caused by unemployment or under-employment, high medical costs, and divorce or death. In fact, a 2010 survey by the Pennsylvania Association of Realtors of 500 Pennsylvania residents found that unemployment (57%) and medical expenses (47%) were the dominant causes of foreclosure, as opposed to subprime loans (14%) or adjustable-rate mortgages (12%).<sup>24</sup> Similarly, Philadelphia VIP found that, of its open cases in December 2010, 90% of the clients stated that their default was caused by unemployment, illness, or a combination of both.<sup>25</sup> As a result, programs with a primary focus on modifying mortgage terms became inadequate to address the full extent of challenges for households in which the terms of the mortgage were neither defective nor excessive.

**In the first three years of its foreclosure-prevention efforts, Philadelphia focused on the Diversion Program and on achieving loan modifications and did not offer alternative-assistance paths to households with high medical bills or other foreclosure causes.** Philadelphia's primary goal from 2008 to 2011 was to bring as many at-risk homeowners as possible to Diversion Court to determine whether a viable loan-modification agreement could be reached. For some Philadelphians, this path did not provide needed assistance. HEMAP provided assistance to households who face foreclosure due to loss of a job, a medical condition, or a change of life. But, some households dealing with a chronic medical condition or a low fixed income will not qualify for HEMAP if they cannot prove that their inability to pay their mortgage is temporary and will last no more than three years.

**One notable example of a population of at-risk homeowners needing a different type of assistance is the large number of homeowners who face foreclosure due to high medical bills.** An independent Robert Wood Johnson study in 2009 found that medical causes contribute to more than 1 in 4 of Philadelphia foreclosures and that medical issues were the primary cause of foreclosure for almost 1 in 10 of those households.<sup>26</sup> Yet hotline workers and counselors rarely inquired into whether a client had a health condition, and if the homeowner volunteered the information, they did not have the skills or knowledge to help the

client to appeal a health insurer's decision, to obtain public-health benefits for family members, or to refer them to an agency or a lawyer that could provide this assistance.

Similarly, some Philadelphia low-income homeowners were struggling to pay their mortgages due to insufficient income rather than the excessive terms of their mortgages. Counselors did not consistently refer these homeowners to benefit programs for which they were eligible, even when the supplemental income might have been sufficient to make current mortgage payments affordable.

As a result, although there is no data available, we would expect that homeowners facing foreclosure due to medical costs or low-income households on fixed incomes are less able to avoid foreclosure using existing public programs and resources.

## PROGRESS TO DATE

**Regional Housing Legal Services (RHLS) and the Pennsylvania Health Law Project (PHLP) planned a pilot project to provide legal and technical assistance to homeowners facing foreclosure due to health-cost-related issues**, which was to start in Fall 2011 with support from the Independence Foundation. RHLS and PHLP would jointly supervise an attorney who planned to help uninsured and underinsured homeowners apply for health insurance, appeal health-insurance decisions regarding large medical bills, and increase prescription coverage. These additional sources of income should increase the likelihood of a HEMAP approval for these homeowners, as well as a private modification. Homeowners obtaining assistance who have medical coverage will continue to participate in the Diversion Program, HEMAP, and other relevant programs. Due to funding cuts to HEMAP, the pilot is being postponed.

**The court in March 2011 also initiated a collaboration with Benefits Data Trust**, a Philadelphia nonprofit that helps seniors obtain the public benefits for which they qualify. Seniors make up 12.5% of total homeowners who call the hotline.<sup>27</sup> Public benefits can supplement income at a level that is sufficient to help many low-income seniors stay in their homes. For those seniors who receive PACE prescription benefits alone, the average annual benefit value is \$3000. For seniors who receive five benefit programs, the average annual benefit value is almost \$8,000.<sup>28</sup>

*27 As of June, 2010, 12.2% of hotline callers are seniors over age 60. There is no comparable data to determine the age of participants in conciliation conferences.*

*28 Average benefit values provided by Benefits Data Trust*

29 *Discussions with Benefits Data Trust regarding results to date on May 26, 2011*

Starting in March 2011, housing counselors and hotline staff have a protocol to refer seniors with incomes below \$40,000 to the BenePhilly program at Benefits Data Trust. As of the end of May 2011, only a few referrals of at-risk seniors had been made by housing counselors to Benefits Data Trust. Benefits Data Trust is following up to determine how to better reach seniors at risk of foreclosure.<sup>29</sup>

## ONGOING RECOMMENDATIONS

**The city should list all assistance programs designed to help existing homeowners.** The majority of these 49 programs, listed in the chart on the next page, are offered on a first-come/first-served basis. Each homeowner should have the opportunity to apply and determine whether they qualify for help. The programs are designed to lower utility bills and property taxes and to help pay for home repairs. Currently, programs designed for existing Philadelphia homeowners are scattered across multiple agencies with differing eligibility requirements, intake processes, and geographic limitations. The city does not provide a complete list of these programs in a single brochure or web page, let alone market them. As a result, simply identifying the 49 programs in the chart on the next page was a significant research challenge. The city website is an inexpensive and effective way to alert at-risk homeowners, their housing counselors, and their lawyers of the various options for assistance. The website should include a program description, application information, downloadable forms, and the total number of grants or loans provided by the program annually so that applicants can obtain a sense of how large the program is and what their chances are of receiving help.

**The city can help more at-risk homeowners by taking the important step of creating one uniform application for all its programs aimed at existing homeowners.** Currently, a homeowner is faced with the need to call or appear in person at multiple locations in order to complete each program's different application process. After visiting multiple locations and completing numerous applications, a homeowner can expect to sit on several different wait lists for the promised services. A uniform application would significantly lower the burden on the homeowner and help the agencies to collaborate better by coordinating services for homeowners. In addition, a uniform application would allow for effective data collection and analysis by multiple agencies and programs. When needed, programs can also require the completion of supplemental forms with additional information.

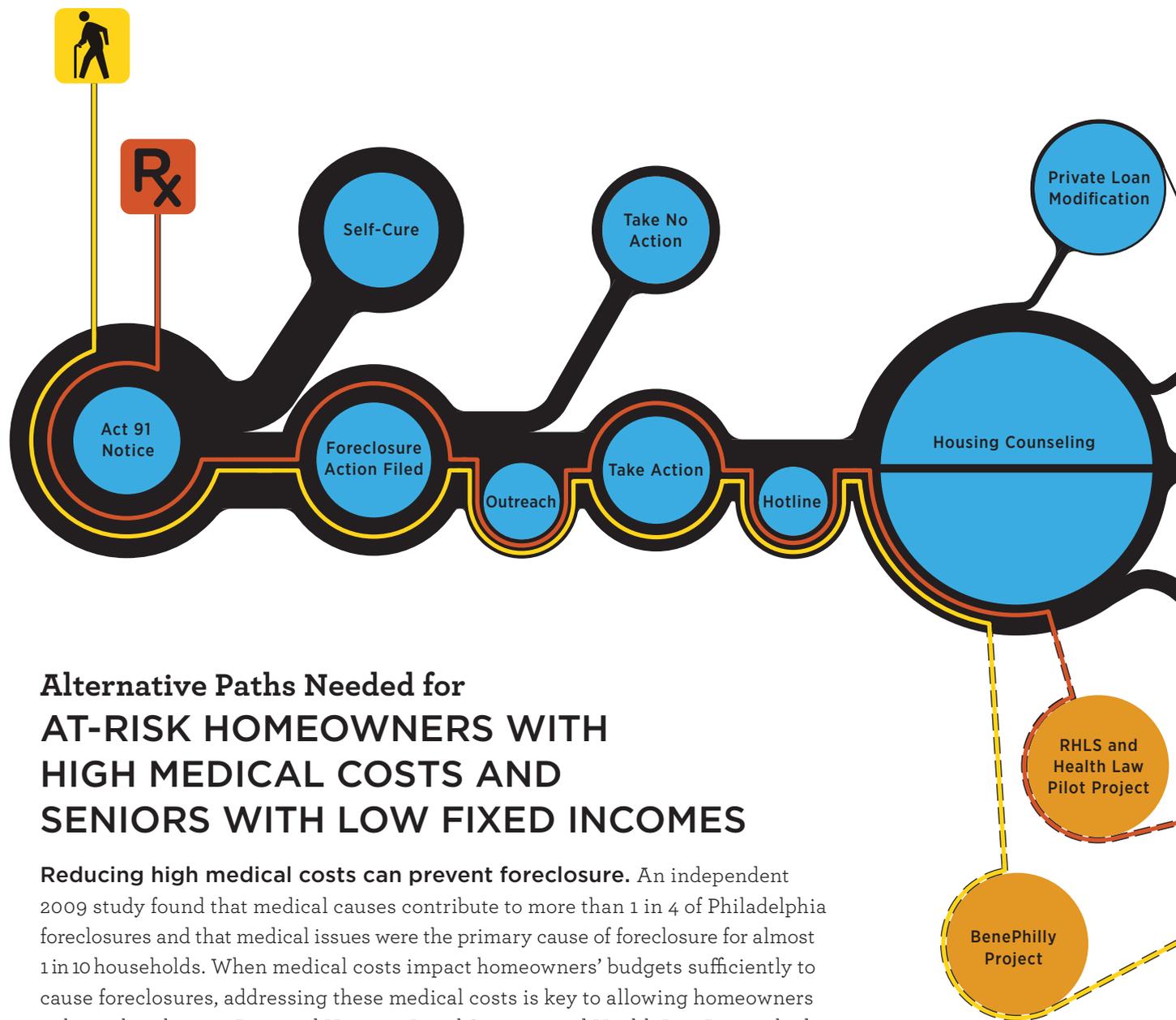
Public Programs to Help Existing Philadelphia Homeowners<sup>30</sup>

CITY PROGRAMS	FUNDER	FUNDING FOR PHILADELPHIA	APPLY TO	HOMEOWNERS HELPED <sup>31</sup>
Adaptive Modification Program	PHDC	\$2,368,000	PHDC	100
Basic Systems Repair Program (BSRP)	PHDC	\$15,899,192	PHDC	2385 (actual)
City Housing Counseling Program	OHCD	\$3,977,000	city-funded counseling agency	13,300
Energy Coordinating Agency Neighborhood Energy Centers Weatherization and Fuel Assistance	OHCD	\$500,000	NEC	2,000
Financial Hardship Agreement, payment plan for delinquent taxes	N/A	\$0	CLS, Linebarger Goggan Blair & Sampson, or counseling agency	x
Foreclosure Diversion Outreach Program	OHCD	\$165,000 <sup>32</sup>	NAC or OHCD	x
Foreclosure Prevention Hotline	OHCD	\$220,000	call Philadelphia Legal Assistance	2000
Heater Hotline	PHDC	\$1,000,000	ECA or NEC	x
Homeownership Rehabilitation Program	PHDC	\$5,205,659	PHDC	68
HomeSMART (Start Managing Assets, Repairs and Titles)	OHCD	\$100,000	referrals via CLS/PLA/SeniorLaw Center	10
Housing Counselor Training	OHCD	\$65,000	Housing Counseling Association	12,000
Impact Services Building Materials Program	OHCD	\$123,000	Impact Services Corp, Kensington	1,000
Philadelphia Home Improvement Loans (PHIL) Program	RDA	\$4,700,000	local banks	150
Philadelphia Neighborhood Housing Services	OHCD	\$257,000	PNHS	60
Philadelphia NHS, Community Improvements/Model Blocks	OHCD	\$150,000	NHS	24,500
Philadelphia Targeted Housing Preservation Program	PHDC	\$600,000	PHDC	0
Property Tax Assessment Appeal	BRT	x	BRT	x
Senior Citizen Low Income Special Tax Provision Program	Revenue	x	Revenue	x
Senior Housing Assistance Repair Program (SHARP)	PCA	\$325,000	Phila Corp for Aging	300
Utility Emergency Services Fund	OHCD	\$525,000	Utility Emergency Services Fund	2200
Weatherization Assistance Program (WAP)	PHDC	\$2,312,090	PHDC	899 (actual)
<b>FEDERAL PROGRAMS</b>				
Emergency Homeowners' Loan Program (EHLPL)	HUD	x	PHFA	x
Home Equity Conversion ("Reverse") Mortgages for Seniors	HUD	x	HUD-funded counseling agency	x
HUD Counseling Program	HUD	x	HUD-funded counseling agency	x
Mortgages for Seniors	HUD	x	HUD-funded counseling agency	x

**BRT:** Board of Revision of Taxes; **CLS:** Community Legal Services; **DEP:** PA Department of Environmental Protection; **DHHS:** US Department of Health and Human Services; **ECA:** Energy Coordinating Agency; **GPUAC:** Greater Philadelphia Urban Affairs Coalition; **HUD:** US Department of Housing and Urban Development; **NAC:** Neighborhood Advisory Committee; **NEC:** Neighborhood Energy Centers; **OHCD:** Office of Housing and Community Development; **PCA:** Philadelphia Corporation for Aging; **PENNVEST:** PA Infrastructure Investment Authority; **PGW:** Philadelphia Gas Works; **PHDC:** Philadelphia Housing Development Corporation; **PHFA:** Pennsylvania Housing Finance Agency; **PID:** PA Insurance Department; **PLA:** Philadelphia Legal Assistance; **PNHS:** Philadelphia Neighborhood Housing Services; **RTP:** Rebuilding Together Philadelphia; **PWD:** Philadelphia Water Department; **Revenue:** Philadelphia Department of Revenue; **TRF:** The Reinvestment Fund

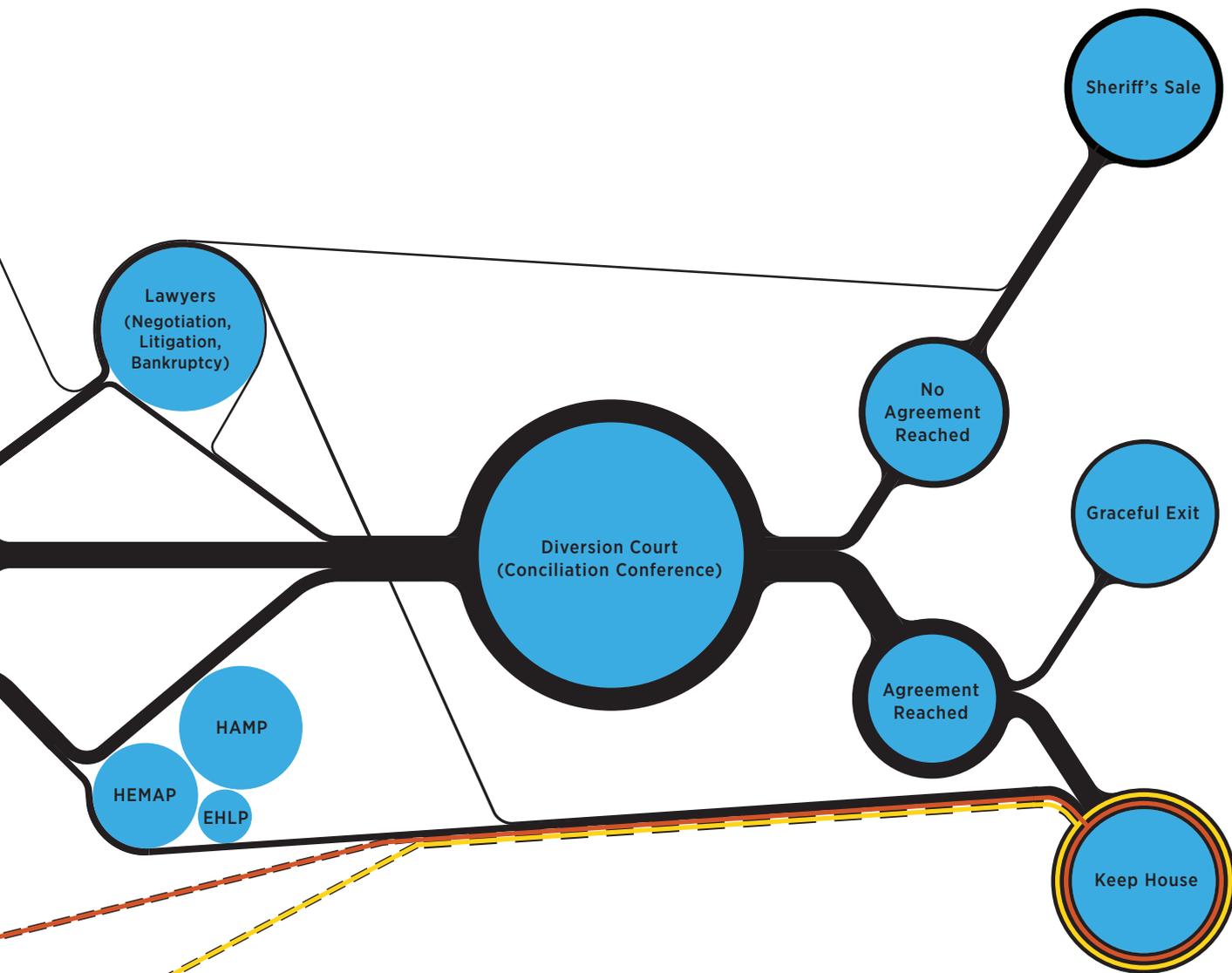
STATE PROGRAMS	FUNDER	FUNDING FOR PHILADELPHIA	APPLY TO	HOMEOWNERS HELPED <sup>31</sup>
Comprehensive Housing Counseling Initiative	PHFA	\$473,286	State-funded counseling agency	×
Foreclosure Mitigation Counseling Initiative	PHFA	\$4,116,000	State-funded counseling agency	×
Homeowners' Emergency Mortgage Assistance Program (HEMAP)	PHFA	\$11,000,000	PHFA	×
Homeowners' Equity Recovery Opportunity Loan Program (HERO)	PHFA	×	PHFA	×
Insurance Placement Facility of PA (Fair Plan)	PID	×	Fair Plan Office	×
Keystone Home Energy Loan Program	PHFA/DEP	×	AFC First Financial	×
Low Income Home Energy Assistance Program (LIHEAP)	DHHS	×	County Assistance Office or NEC	×
PA Housing Finance Agency Keystone Renovate & Repair Loan	PHFA	×	NHS or AFC First Financial Corp.	×
PENNVEST Individual On-Lot Sewage System Repair Program	PENNVEST	×	PENNVEST participating lender	×
Property Tax/Rent Rebate	Revenue	×	Revenue	×
Refinance to an Affordable Loan Program (REAL)	PHFA	×	PHFA participating REAL lender	×
<b>NONPROFITS AND UTILITIES</b>				
Community Legal Services/Philadelphia Legal Assistance	OHCD	×	CLS/PLA	×
Customer Assistance Program (CAP)	PECO	×	Call PECO	×
Customer Responsibility Program (CRP)	PGW	×	PGW	×
Homeowners Emergency Loan Program (HELP)	PWD	×	PWD	×
Low Income Usage Reduction Program (LIURP)	PECO	×	PECO	×
Matching Energy Assistance Fund (MEAF)	PECO	×	PECO	×
PCA Emergency Fund for Seniors	PCA	×	PCA	×
Philadelphia VIP	OHCD	×	Philadelphia VIP	×
Rebuilding Together Philadelphia (RTP)	RTP	×	RTP	×
Saving Homes, Saving Neighborhoods (Oak Foundation) SW Phila and W. Oak Lane	Oak Foundation	×	GPUAC, CLS, PLA, TRF	×
SeniorLAW Center Legal Services for low-income senior citizens	OHCD	×	SeniorLAW Center	×
Water Revenue Bureau Low Income Payment Agreement	PWD	×	PWD	×
Water Revenue Bureau Senior Citizens Discount	PWD	×	PWD	×

<sup>30</sup> Fiscal year 2009 (July 1, 2008–June 30, 2009). <sup>31</sup> Numbers are based on targets the city set prior to allocation of funding. <sup>32</sup> \$165,000 is based upon a city estimate. City Neighborhood Advisory Committees receive \$1,700,000 per year. An additional \$122,000 in funding was used to fund outreach in neighborhoods without a NAC. × = data not available



## Alternative Paths Needed for AT-RISK HOMEOWNERS WITH HIGH MEDICAL COSTS AND SENIORS WITH LOW FIXED INCOMES

**Reducing high medical costs can prevent foreclosure.** An independent 2009 study found that medical causes contribute to more than 1 in 4 of Philadelphia foreclosures and that medical issues were the primary cause of foreclosure for almost 1 in 10 households. When medical costs impact homeowners' budgets sufficiently to cause foreclosures, addressing these medical costs is key to allowing homeowners to keep their homes. Regional Housing Legal Services and Health Law Project had planned a pilot program to help homeowners applying to HEMAP with high medical costs obtain appropriate health insurance and to appeal insurance coverage decisions. Due to the funding shortfall for HEMAP, the pilot is being postponed.



**Helping seniors on fixed incomes obtain public benefits for which they are eligible can prevent foreclosure.** People over age 60 are 12.5% of hotline callers, and many live on fixed incomes and struggle to pay their mortgages due to insufficient income rather than the excessive terms of their mortgages. The BenePhilly Project at Benefits Data Trust helps seniors to apply for state and federal benefits for which they qualify to supplement their income sufficiently to allow seniors to pay their mortgages. Benefit values range from \$3000 for PACE prescription benefits to an average of \$8000 when they qualify for all five benefit programs that BenePhilly offers.

# 2

**Provide**

## **HOUSING COUNSELORS**

with training, certification, and performance standards to ensure quality, consistent service.

The city has already replaced its trainer, improved its training program, and mandated certification. In addition, the city should professionalize housing counseling by taking these actions:

### **ADOPT AND ENFORCE**

consistent housing-counselor standards and guidelines that require an explanation of all alternatives and a written plan for each homeowner.

### **FUND**

a senior counselor to coach inexperienced counselors to ensure that no one is “learning on the job” at the expense of a homeowner.

### **CREATE**

two job levels for housing counselors based on skills and experience.

### **COLLECT AND USE**

data to monitor case outcomes.

### **INCLUDE AND ENFORCE**

performance metrics in contracts with housing-counseling agencies.

33 Several counselors stated that that they were uncomfortable negotiating foreclosure agreements and expressed the belief that it is unfair for counselors to be asked to perform negotiations directly with lawyers when they do not receive comparable training, pay, or prestige.

**Housing counselors are the lynchpin of Philadelphia’s foreclosure-prevention efforts.** Upon request, every homeowner is provided with an in-person appointment with a housing counselor. Thousands of homeowners met with housing counselors from 2008 to 2011, often discussing their household budgets for the first time with individuals outside their families. Some counselors took on a caseload of one hundred or more clients. Three housing counselors were assigned to elderly clients throughout the city who might need in-person visits or extra assistance. Counselors who had previously provided counseling in other areas were required to quickly learn new skills and take on new tasks for their clients, such as negotiating with lawyers representing lenders/servicers.<sup>33</sup>

**Housing counselors are scattered among 31 agencies in Philadelphia,** each with their own board, supervisors, and supports, many housed in community development corporations. Each agency may have as few as one or two housing-counselor positions and has its own hiring and supervision requirements. While their diverse locations make it convenient for homeowners in virtually any neighborhood to visit a housing counselor, this diversity makes it difficult for the city, as their primary funder, to enforce a clear set of performance standards and to guarantee adequate front-line supervision.

**Out of 31 counseling agencies in the city,**

**28** are very small, neighborhood-based organizations with 1 to 3 counselors.



Of the remaining three, two are medium-sized agencies, Community Organizations International (COI) and Philadelphia Unemployment Project (PUP). The largest agency, Consumer Credit Counseling Service of Delaware Valley (CCCS), has 43 counselors in locations throughout the region.

**Many new housing counselors were hired over the past three years,** while some Philadelphia housing counselors have more years of experience. The city required new counselors to obtain city-funded training within six months of hire, but this left many operating for months without adequate information. In addition, housing counselors interviewed unanimously agreed that the training provided by a nonprofit under contract with the city from 2008 to the end of 2010 was inadequate and dated. Counselors stated that it neither taught negotiating skills nor kept up with changing foreclosure-prevention laws.<sup>34</sup>

**Counselors are allowed to use their own judgment** as to what financial assistance programs to apply for, terms to negotiate, or actions to recommend for each client—and there are no baseline standards for evaluating performance. As a result, application rates for HEMAP, HAMP, and other programs varied widely among the housing counselors.<sup>35</sup> In addition, counselors offered their clients different advice as to whether to pay delinquent loans using 401K, education, or retirement funds; to escrow payments during negotiations; and to consider a “graceful exit.” While some counselors told clients to report retirement or college savings to lenders and use savings to resolve delinquency, others reported that they told clients not to touch these savings because it is not required under law and that it is best to preserve them for their intended use. Similarly, while some counselors advised clients to place mortgage payments in escrow during the negotiation period, others did not, and this left homeowners with very different payment abilities once a loan modification was achieved. Finally, counselors took very different approaches as to when and whether to explain to the client the benefits of considering what Judge Rizzo refers to as a “graceful exit,” resulting in the loss of a home but the preservation of credit, a cash payment, and/or extra time to relocate. Some counselors advised clients to agree to a short sale or cash for keys if they felt that the homeowner just couldn’t afford to keep the home. Their goal was to get the household into a more affordable rental situation while preserving their credit rating. Other counselors with clients in the same situation chose to fight to the bitter end to preserve their clients’ homes and never discussed the possibility of a graceful exit with their clients.<sup>36</sup>

**Inconsistencies in housing-counselor advice and performance create two key concerns.** First, differing treatment will result in two similar at-risk homeowners obtaining different foreclosure outcomes based upon the housing-counseling agency they select. Inadequate data makes it impossible to quantify whether this has happened and how frequently. Second, at a time when governments

*34 In order to obtain candid interviews with housing counselors, the report author promised not to identify or quote any housing counselor in this report. As a result, individual interviews with housing counselors are not cited as sources for these statements.*

*35 Pennsylvania Housing Finance Agency (PHFA) compensates its housing-counseling agencies with \$125 per HEMAP application filed. City-funded housing-counseling agencies are not funded to file HEMAP applications.*

*36 Counselors also devote significantly different amounts of time to each client. Some report spending six hours on average per client, while others spend no more than 1.5 hours. A national study found that a greater amount of time spent with the housing counselor reduces the probability that the homeowner will move to a more severe stage of foreclosure. J. Michael Collins, Exploring the Design of Financial Counseling for Mortgage Borrowers in Default, J Fam Econ Iss (2007).*

37 *The State of the Housing Counseling Industry, HUD's Office of Policy Development and Research (2008), www.huduser.org/Publications/PDF/hsg\_counsel.pdf*

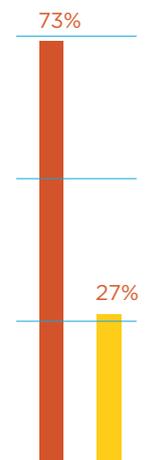
38 *Ibid.*

39 *Ibid.* A 2007 study of housing-counseling agencies found that average per-client costs decline as client volumes increase at each agency, suggesting that larger-scale counseling operations experience certain cost efficiencies.

are purchasing housing-counseling services at unprecedented levels, it is essential that consistent, results-oriented standards are imposed so government has a clear sense of what it is purchasing and can gauge the impact of its purchases. Philadelphia to date has been limited in its ability to define the effectiveness of housing-counseling services that the city has funded.

## A recent HUD survey found that the majority of HUD-approved housing counselors support national standards.

*The issue of requiring consistent national standards for housing counselors has been the subject of debate within the industry since the 1990's. The survey revealed that, when including all types of counseling and education services, 73 percent of agencies reported a need for national standards of some type, while 27 percent reported that existing standards are sufficient. Support for national standards is highest for predatory-lending workshops and foreclosure-mitigation counseling.<sup>37</sup> To date, the NeighborWorks® Center for Homeownership Education and Counseling (NCHEC) has issued National Industry Foreclosure Counseling Standards, a set of training and performance benchmarks that can be voluntarily adopted to provide guidance to counselors providing foreclosure-counseling services.<sup>38</sup>*



Housing counselors surveyed about the need for national standards: YES NO

## PROGRESS TO DATE

**Housing counselors must be held to professional performance standards with certification and must be supported with front-line supervision and proper training** in order to provide consistent, high-quality foreclosure-prevention services. To do this, the city has chosen to strengthen its training, testing, and supervision of existing counseling agencies rather than to hire new contractors or attempt to restructure or consolidate the 31 small, geographically scattered counseling agencies into one or two centralized agencies.<sup>39</sup> Northwest Counseling Service, doing business as the National Real Estate Training Institute (NREI), has entered into a contract with OHCD to provide a comprehensive counselor

training and mentoring strategy. NREI's approach includes a collaboration with the National Association of Housing Counselors & Agencies, Inc. (NAHCA) (providing a national certification), PHFA (providing each of their required continuing education courses), and Philadelphia Council for Community Advancement (PCCA) (facilitating mentoring sessions and pairing mentors with mentees). NREI provides all basic through advanced counselor courses including the diversion certification course, in addition to administration, testing, measurement, and evaluation.

40 *Standards for Homeownership Education and Counseling—Foreclosure Intervention Specialty (2007)*, [www.homeownershipstandards.com](http://www.homeownershipstandards.com)

**Counselor performance will be tested and certified.** In Fall 2010, the city began a program to test housing counselors on basic skills and on their understanding of the process for the first time. Counselor tests were graded, and many received inadequate grades. Those counselors who tested poorly were assigned to further training. Several housing counselors interviewed for this report voiced complaints about the test and its ability to give an accurate assessment of the knowledge and skills that housing counselors need for default and delinquency counseling. Starting in Spring 2011, improved tests were given to new counselors. In addition, the city has assigned an experienced housing counselor to act as a mentor for counselors who do not score well on the exams, helping them learn to provide quality services to their clients.

## ONGOING RECOMMENDATIONS

**Professionalize housing counseling by enforcing clear standards and guidelines.** One key mandate of the National Industry Standards for Homeownership Education and Counseling is that the counselor provide the client with information about all potential alternatives, giving an informed client the opportunity to choose what path to take to avoid foreclosure.

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**The current national housing-counselor standards state,** *“Upon completion of foreclosure intervention counseling, clients will understand the various options available to assist them to avoid foreclosure . . . and will have received a written action plan outlining the necessary steps to achieve their desired outcome.” The action plan should include a recommendation for resolving delinquency, steps the homeowner will take to resolve the delinquency, and ways the counselor will assist with these actions, along with contact information for community referrals.*<sup>40</sup>

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**A homeowner would also benefit greatly by walking out of a conference with a written action plan or set of instructions** detailing the actions each has agreed to take to eliminate the delinquency and avoid foreclosure. Currently, homeowners leave the court with a copy of the form order filed with the court and a verbal explanation from their housing counselors about the actions they should take. Without a written action plan and a set of instructions that reflect their obligations under the agreement (e.g., to pay half of current payment for the first three months and then to pay a modified amount in subsequent months), many homeowners risk redefaulting through error rather than an inability to pay. Others may never follow up with a referral or take agreed-upon actions because they slip their minds. At least one counseling agency does not provide written instructions to clients because they fear being held liable if they do not accurately record the appropriate payment amounts. The counselors' fear that they will inaccurately record the actions required under the agreement illustrates how complex some of these agreements can be.

**Provide better first-line supervision to counselors in small agencies.**

Often, a housing counselor within a small CDC is the only person who has any knowledge or experience in foreclosure prevention. To gain assistance, the counselor must ask for advice from colleagues at other agencies who are staggeringly busy, given the high volume of foreclosures. The city should assign a full-time person to offer advice and supervise inexperienced counselors to ensure that no one is “learning on the job” at the expense of a homeowner. This person's role should go well beyond mentoring.

**Create two tiers of housing counselors. This will distinguish those with more expertise from others,** lower turnover by enabling promotions over time, and allow some level of specialization. Over the past three years, there has been significant turnover among housing counselors due to high stress and low pay. Further, there is typically no opportunity for promotion. While the city does not hire counselors or set their work terms, the city can encourage the counseling agencies that it funds to create two tiers of counselors. The experienced counselors can help advise rookies, look forward to a promotion, and be assigned the tougher cases, for which greater creativity and expertise is invaluable.

# 3

## Take action to ensure that all **HOUSING COUNSELORS** apply to state HEMAP and federal EHLP for eligible homeowners.

Recommended actions to increase HEMAP and EHLP applications and loan-approval rates from Philadelphia:

### **MONITOR**

HEMAP and EHLP applications and approval rates for each housing-counseling agency and provide additional training where needed.

### **ENCOURAGE**

housing counselors to utilize Regional Housing Legal Services's HEMAP Help Center to improve application quality.

### **WORK**

with PHFA to develop a streamlined online application for HEMAP and EHLP.

### **COMPENSATE**

city-funded counseling agencies that complete HEMAP and EHLP applications for clients at the same rate as state-funded agencies.

*41 To apply for HEMAP, a homeowner is required to meet with a housing counselor. Of those counselors interviewed who recommended that clients apply to the HEMAP program, all stated that they completed and submitted the applications on behalf of the homeowners.*

**An important challenge for Philadelphia is to increase its low application rate to the HEMAP program.** HEMAP application rates in Philadelphia in 2010 were some of the lowest in the state, depriving at-risk homeowners of an important tool. Philadelphia housing counselors have elected not to apply to HEMAP for their clients for a number of reasons. First, the length and burdensome nature of the application deters some counselors, since counselors commonly complete and submit applications for their clients.<sup>41</sup> PHFA pays the housing counselors that it funds up to \$125 to fill out the form. Counselors funded by the City of Philadelphia whose agency does not receive state funding are not paid extra for the completion and submission of each HEMAP application.

## 2009 Philadelphia HEMAP Data

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**APPLICATIONS: 2300**

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**APPROVED LOANS: 566**

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**CLOSED LOANS: 311**

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**APPROVAL RATE: 25%**

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**LOANS THAT ARE NONCONTINUING: 84%**

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**APPROVED LOANS THAT DO NOT CLOSE: 55%**

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Second, the city does not require counselors to apply for HEMAP for their foreclosure-prevention clients. As a result, counselors apply for HEMAP at very different rates—some submit applications for HEMAP for 98% of applicants, while others rarely, if ever, apply for HEMAP.

Third, interviews with housing counselors revealed a deeply held perception by some that clients have such a low chance of approval that applications are a waste of time. When interviewed, one counselor stated that she had virtually stopped applying for HEMAP for her clients because only 2% of her client's HEMAP applications resulted in approved loans. Given that the city's approval rate for 2009 was 25%, it may be that the quality of the applications and the counselors' ability to tell clients' stories in ways that clearly fit within the HEMAP guidelines might be a factor. Other counselors expressed a belief that it was not worth applying because their clients would not benefit from a one-time payment to eliminate delinquency and that these one-time payments make up the majority of loan approvals. These counselors contended that HEMAP offers no advantages over loan modifications that



*43 These ongoing recommendations assume that HEMAP is reinstated and/or EHLF funding is continued.*

## PROGRESS TO DATE

**New training for city-funded housing counselors will include PHFA training on EHLF and HEMAP applications.** EHLF trainings were held for Philadelphia housing counselors in early 2011, before the program was up and running.

**The courts are designating a room and a computer for HEMAP/EHLF applications** so applications can be filed from Diversion Court in order to ensure access to all eligible applicants.

**Advocates are networking** to ensure EHLF funds are fully expended and that HEMAP is reinstated.

## ONGOING RECOMMENDATIONS <sup>43</sup>

**Require each housing counselor to provide the total number of HEMAP and EHLF applications filed each month and their outcomes** as a part of the data required by the city's Office of Housing and Community Development (OHCD). OHCD should compile the data and share city and agency averages. Given the variation in counselor behavior towards HEMAP, it will be important to hold counselors accountable.

**Work with PHFA to simplify the Act 91 Notice and the HEMAP/EHLF application** and allow applications to be completed and filed online.

**Have counselors use Regional Housing Legal Services's HEMAP Help Center** to obtain a free and prompt online critique of their HEMAP applications by experienced attorneys. Applicants using the HEMAP Help Center have a success rate nearly double that of those who do not use the service.

**Perform outreach to inform Philadelphians with foreclosures due to unemployment or high medical costs** of the opportunity to apply for the EHLF program within the very short window of time in which the funds are available.

# 4

## Improve coordination between state- and city-funded **HOUSING COUNSELORS** so all can participate in relevant programs.

Recommended actions to integrate state and city housing-counseling networks:

### **EXTEND**

PHFA financial incentives for HEMAP applications to city housing-counseling agencies.

### **ALLOW**

PHFA-funded counseling agencies to participate in Diversion Court.

### **JOINTLY ADOPT**

a national database and share data to avoid duplicative data entry.

*44 The City of Philadelphia requires counselors that it funds to enter client information into CounselorMax, a national online database owned by Neighborworks America. Pennsylvania Housing Finance Agency (PHFA) requires counselors it funds to enter information into a national online database called Home Counselor Online, which is owned by Fannie Mae.*

*45 Since 1983, PHFA-funded counselors have been paid \$25 an hour and up to \$125 for five hours to complete the HEMAP application. Counselors interviewed stated that they always listed five hours in order to receive the maximum amount.*

*46 Interview with Mark Schwartz, PHFA Board, April 21, 2011*

### **Pennsylvania Housing Finance Agency (PHFA) and the city's Office of Housing and Community Development (OHCD) fund and train housing counselors in Philadelphia.**

While many counseling agencies receive funding from both sources, the two agencies have different eligibility and training requirements and require data input into two different databases.<sup>44</sup> PHFA and OHCD also require their counselors to attend separate multi-day training sessions. In addition, counselors who are solely a part of PHFA's network are not allowed to participate in the city's Diversion Program. Those solely funded by OHCD are not funded to file HEMAP applications (while PHFA counselors receive \$125 per application submitted).<sup>45</sup> PHFA funds eight counseling agencies in Philadelphia. OHCD funds 31 agencies. There is significant overlap.<sup>46</sup>

## **PROGRESS TO DATE**

**PHFA has been selected by the city to be a part of a team of housing-counselor trainers** as of Spring 2011. This means that, for the first time, the two trainings will include much of the same basic content.

## **ONGOING RECOMMENDATIONS**

**PHFA and the city should integrate their counselor networks.** PHFA proposed such an integration for the first time in Spring 2011. If the city and state follow up on this proposal, PHFA counselors will be allowed to participate in Diversion Court, and city counselors will gain the financial incentive, training, and support needed to successfully apply to the HEMAP and EHLP bridge-loan programs for their clients.

**PHFA and OHCD should jointly adopt one of two national databases:** Hope LoanPort, released by HopeNow, or DMM, released by Default Mitigation Management LLC. Both portals store all relevant data regarding a homeowner's foreclosure case while enabling all parties (including housing counselors, judges, lawyers, and lenders) to view documentation, communicate with one another in real time, and provide involved parties with an e-mail notification if a status change or a potential redefault occurs in a case.

# 5

**Create and utilize**

## **REFERRAL AND INTAKE CRITERIA**

for cases that would most benefit from legal representation.

Recommended actions to most effectively utilize limited legal resources:

### **CONNECT**

legal services and volunteer attorneys with housing counselors to establish guidelines for a better working relationship.

### **PROVIDE**

clear guidance on when a foreclosure case should be referred to an attorney.

### **ENCOURAGE**

legal service firms to share case-selection criteria with housing counselors to dispel any perception that their clients are not fairly afforded legal assistance.

### **CREATE**

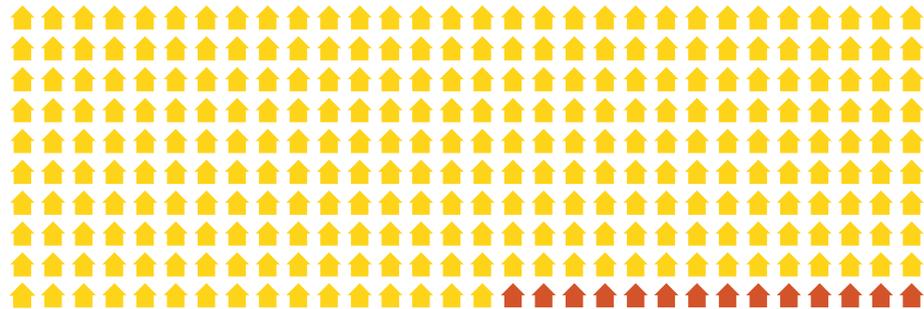
an information-sharing agreement to allow lawyers to update housing counselors on case progress regularly.

47 Nationally, 95% of homeowners are unrepresented by an attorney throughout the foreclosure-prevention process, just as in Philadelphia. Melanca Clark with Maggie Barron, *Foreclosures: A Crisis in Legal Representation*, Brennan Center for Justice (2009), [http://brennan.3cdn.net/9de98cb2c6a580e418\\_b8m6bhd3z.pdf](http://brennan.3cdn.net/9de98cb2c6a580e418_b8m6bhd3z.pdf)

48 Interview with Peter Schneider at Community Legal Services on January 8, 2010; Interview with Irwin Trauss of Philadelphia Legal Assistance on January 22, 2010

49 *Ibid.*

**Fewer than 5% of total at-risk homeowners received legal representation that resulted in a formal court appearance** over the first three years of the program.<sup>47</sup> Many more homeowners received limited representation by volunteer lawyers from Philadelphia VIP, who make themselves available during Diversion Court to represent at-risk homeowners. Philadelphia is also lucky to have two acclaimed legal services firms, Community Legal Services (CLS) and Philadelphia Legal Assistance (PLA), to negotiate and litigate foreclosure cases. However, even with additional city funding, the two legal services firms have the capacity to take fewer than 300 cases a year, the number of cases heard routinely in a single week of Diversion Court.



- More than 95% of homeowners do not receive legal representation that results in a formal court appearance.
- Fewer than 5% of homeowners receive legal representation that results in a formal court appearance.

**Intake procedures for legal services have been refined over time, but demand exceeds supply so much that one case will be accepted for litigation with virtually identical merit, legal defenses, and facts as another case turned away due to a lack of capacity.**<sup>48</sup> The city does not have a policy as to which homeowners should receive priority access to limited legal services resources. Considerations to date have focused on homeowner characteristics (e.g., whether they have alternate housing should they lose their homes) rather than on potential legal defenses, because the latter requires hours of limited attorney time to identify.<sup>49</sup>

Counselors who were interviewed said they rarely refer cases to CLS or PLA because cases have been rejected in the past and they do not understand what kind of case

the legal services lawyers will agree to take. One counselor said that the client who gets legal representation wins the lottery but that she doesn't understand the rules one needs to follow to buy a ticket. Some counselors, uncertain which cases to refer and discouraged by repeated refusals, stop referring cases, regardless of the situation or potential legal defenses. Finally, housing counselors expressed their concern that once a lawyer takes a case, the lawyer does not provide the counselor with information about the progress of the case, even when the counselor is continuing to assist the homeowner.

**Housing counselors are reluctant to refer clients to volunteer attorneys.**

Housing counselors interviewed stated that they often do not use volunteer attorneys from Philadelphia VIP, in part because they fear that the lawyer will take over and treat them as staff, and in part because they do not think a lawyer with limited training can offer anything they cannot.

## PROGRESS TO DATE

**Early discussions have been held with the legal services firms** around these recommendations.

## ONGOING RECOMMENDATIONS

**The city should convene attorneys and housing counselors** to establish better relationships and to define when a foreclosure case should be referred to an attorney.

**Philadelphia's legal services attorneys should provide guidance to housing counselors** so that they will understand the most appropriate cases for legal referrals.

**CLS and PLA should agree on intake criteria** and share it with housing counselors so the process appears less arbitrary.

**Legal Services attorneys and housing counselors should create an information-sharing agreement** through which lawyers agree to keep counselors informed of case progress.

# 6

**Improve**

## **DATA COLLECTION**

and provide accurate, up-to-date information to the city, homeowners, and foreclosure-prevention professionals.

Recommended actions to improve data collection and provide key information to stakeholders:

### **UPDATE**

housing-counselor database to include actions taken and outcomes for each case.

### **CONTINUE**

to invest in new technology for legal services firms to allow accurate data collection.

### **CONTINUE**

to track homeowner outcomes.

**Data collection is not the first priority when trying to serve thousands of homeowners at risk of losing their homes, but it is an essential attribute of an accountable program.** Given the speed at which the Diversion Program was started, neither the city nor the courts mandated the collection of data regarding the at-risk homeowner or the outcome of each foreclosure case, with two exceptions. The city requires the hotline to keep data on its callers, and approximately 49% of Philadelphia homeowners facing foreclosure called the hotline between April 2008 and June 2011.<sup>50</sup> The city also requires counseling agencies to enter information for each client facing foreclosure into a city-managed database. Information is typically entered on the day of intake and is rarely updated to reflect negotiations or outcomes. For its first three years, the Court of Common Pleas required only that orders be submitted stating whether an agreement had been reached but did not require the parties to specify whether the agreement modified loan terms, created a forbearance plan, exchanged cash for keys, or involved other action. As a result, city- and court-collected data does not permit a determination of whether a homeowner was able to remain in a home or lost that home as a result of the foreclosure.

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### **Ironically, while reliable data is scarce, data-reporting requirements for housing counselors are burdensome.**

*Depending on whether they are funded by the city, the state, or both, counselors are often required to input redundant information into two or three different databases for each client.*

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**In addition, homeowners and foreclosure-prevention professionals require accurate, up-to-date information.** Information is a key requirement for effective participation in the foreclosure-prevention process. Housing counselors and lawyers need to be kept informed of changes to law and policy that may impact their clients. Homeowners would benefit greatly from the ability to independently evaluate available actions to retain their homes. Yet no agency or organization has taken responsibility for fulfilling these two important functions in the program's first three years. Counselors and lawyers should receive regular updates by email with helpful written summary documents to which they can repeatedly refer. This is particularly important as new programs like Emergency Homeowners' Loan Program (EHLPP) are introduced.

*50 The hotline database was originally created in 1996 for the Don't Borrow Trouble program. When the hotline purpose changed, OHCD added certain fields but basically collected the same data, such as basic information about the caller, including name, address, phone number, last 4 digits of Social Security, birth date, age, income, gender, and race. Most of the relevant information, however, is put in the form of notes in a summary section including the level of delinquency, the type of mortgage, and the cause of delinquency. This makes tabulation of this data extremely challenging.*

## PROGRESS TO DATE

**Faced with imperfect data from several sources, The Reinvestment Fund filled gaps in data** by performing interviews and tracking homeowners who had completed the process for up to two years to determine whether they remained in their homes. This analysis provides the statistics cited throughout this report.<sup>48</sup>

**The court has also strengthened its own data collection by introducing a new order form that the parties must complete.** The order no longer permits the parties to merely state that an agreement has been reached, but rather requires the parties to specify the category of agreement. This will provide far more detailed and helpful data in the future, although it provides a type of agreement rather than the specific outcome in an individual case.

**There have been discussions with the city about the need for a single organization** that will be responsible for informing all stakeholders about changes to law and policy. No organization has yet been identified, but talks are ongoing.

## ONGOING RECOMMENDATIONS

**Housing counselors should update a client's data at least once after intake so the file reflects the actions taken and outcomes.** This information would be helpful to other housing counselors if shared in summary form and should also be provided to a third-party evaluator, such as The Reinvestment Fund, so this evaluation can determine outcomes and efficacy.

**CLS and PLA should continue to invest in new technology** to allow for accurate data collection in cases for which legal representation was provided. As recommended in Recommendation 4, if the various agencies adopt the same database, this will centralize and allow them to share data to improve all parties' understanding of the outcomes of foreclosure cases. It will also create new opportunities to improve performance and give the city a better understanding of performance.

**The Sheriff's Office, discussed on the following pages, is a significant source for data** but lacks the capacity to collect it or the willingness to share it. The Sheriff's Office must take action to improve the accuracy of its data and to make this data available to the city and the courts.

**The city or one of its nonprofit partners should create a detailed website for homeowners facing foreclosure that explains all relevant alternatives open to them.** This online resource should explain the process so everyone walking in the door of a housing counselor's office or a courtroom understands what to expect, and it should also describe each available program at the local, state, and federal levels so homeowners can make informed decisions. Referrals from outreach workers, hotline staff, housing counselors, and attorneys should drive significant traffic to the site. A chart similar to that included on pages 25 to 26 that lists every program directed towards helping at-risk homeowners and notes those that welcome online applications should be made available on this website, as well.

# 7

## Take action to encourage the **SHERIFF'S OFFICE**

to cooperate with the courts' and city's efforts  
to prevent foreclosure.

Recommended actions for the sheriff that will  
assist the city's foreclosure-prevention efforts:

### **REDUCE**

\$1700 fee imposed on each homeowner  
for a sheriff's sale.

### **STAY**

foreclosures based on court orders  
communicated electronically.

### **RETURN**

all sales proceeds exceeding taxes, utilities,  
and liens to the homeowner promptly.

### **UPDATE AND MODERNIZE**

database to improve accuracy  
and allow for sharing of data.

### **PROVIDE**

writs with outcomes of sheriff's sales  
to the courts in a timely manner.

**Philadelphia will be electing a new Sheriff in November 2011 for the first time in 22 years.** This presents an important opportunity to transform the Sheriff's Office into a more effective partner in foreclosure prevention. Since June 2008, the Sheriff's Office has refused to cooperate with the courts or the city.<sup>51</sup> Its noncollaborative culture, inaccurate and dated computer system, and antiquated policies pose an impediment to preventing foreclosures. The Sheriff's Office's mission is to carry out the orders of the court, yet there was exceedingly poor communication between the sheriff and the court. The sheriff's outdated database does not include correct addresses or the docket numbers of cases, making it difficult to determine what homes have been sold at sheriff's sale. In addition, the sheriff refused to acknowledge a court stay of foreclosure unless the order was walked over to the sheriff's office and filed.

**The fees imposed by the Sheriff's Office actually contributed to some foreclosures, and the sheriff kept millions of dollars legally owed to homeowners.** The sheriff charges homeowners a \$1700 fee for a sheriff's sale. Recent audits by the City Controller found that the Sheriff's Office's accounting was so poor that they did not know how the fees were used.<sup>52</sup> The sheriff also failed to return the homeowner's money when the foreclosure sale price exceeded the taxes, utilities, and liens on the property. Millions of dollars were illegally retained.<sup>53</sup> Philadelphia has an important opportunity to reform the Sheriff's Office through the willing actions of the new sheriff or, if needed, through legislative and legal action.

## PROGRESS TO DATE

**Two memoranda of understanding (MOU's) have been signed,** one between the city and the Sheriff's Office, under a new acting sheriff, and another between the Court of Common Pleas and the Sheriff's Office, in early 2011. Each of these MOU's offers cooperation in cleaning up the financial records, information technology, and sales process in return for access to data, regular updates, and cooperation.

## ONGOING RECOMMENDATIONS

**Reduce \$1700 fee imposed on each homeowner for a sheriff's sale.** Base this fee upon actual costs incurred. One of the first topics the Foreclosure Steering

*51 It is important to note that repeated attempts to talk to anyone in the Sheriff's Office were unsuccessful, even after the report author solicited the assistance of high-ranking city and court officials to try to set up a meeting. As a result, information about the Sheriff's Office comes exclusively from other stakeholders in the process.*

*52 Philadelphia Office of the Controller, Office of the Sheriff Auditor's Report 2007-2009, [www.philadelphiacontroller.org/publications/audits/SheriffAuditFY07-09.pdf](http://www.philadelphiacontroller.org/publications/audits/SheriffAuditFY07-09.pdf)*

*53 Ibid.*

**54** *Rule 3135, Sheriff's Deed to Real Property, Correction of Deed (a): When real property is sold in execution and no petition to set aside the sale has been filed, the sheriff, at the expiration of twenty days but no later than 40 days after either the filing of the schedule of distribution or the execution sale if no schedule of distribution need be filed, shall execute and acknowledge before the prothonotary a deed to the property sold. The sheriff shall forthwith deliver the deed to the appropriate officers for recording and for registry if required. Confirmation of the sale by the court shall not be required.*

Committee took on in 2004 was the need to lower the sheriff's prohibitively high fees for each sheriff's sale. Fees of \$2,000 were standard, and in many cases adding this high fee to homeowners' current delinquency was enough to make it impossible for homeowners to keep their homes. The steering committee and the Sheriff's Office came to an agreement to reduce fees to \$1,200. Within months, however, the Sheriff's Office unilaterally raised the fees again to \$1,700. The sheriff offered no explanation for the reversal in policy.

### **Stay foreclosures based on court orders communicated electronically.**

The sheriff can verify the stay by checking the court's online docket.

### **Return all sales proceeds exceeding taxes, utilities, and liens to the homeowner promptly.** Keep clear records of amounts returned.

**Update database** to include accurate addresses, docket numbers, and other information that will allow for the sharing of data with other partners in foreclosure prevention. Within the Diversion Program, all cases are filed by court docket number. The Sheriff's Office continues to file its cases based on a centuries-old filing method that other city and court agencies eliminated decades ago—by book and writ number. While the two data systems each include a property address, the Sheriff's Office has not updated its address database, and many are too inaccurate to allow for an address match. The city and the courts have asked the Sheriff's Office to add a docket number field to its database, but the Sheriff's Office has refused due to costs that they state are prohibitive, even though the Sheriff's Office routinely uses docket numbers to file required writs with the court electronically.

**Provide writs with outcomes of sheriff's sales to the courts in a timely manner.** Enforcement of Judgments Rule 3139 (c) requires the sheriff to file a writ with the court. Although no specific timeframe was provided in the past, a recent amendment requires the sheriff to do so more promptly.<sup>54</sup> The Sheriff's Office can currently take over a year to file these, making it impossible for the court to track outcomes.



**Implement**

# PROPOSED REFORMS

and fund foreclosure prevention to avoid millions of dollars in costs to the city.

Recommended actions:

## **IMPLEMENT**

the eight recommendations in this report.

## **CONTINUE**

funding the foreclosure-prevention program until foreclosure rates return to 2006 levels.<sup>55</sup>

55 Philadelphia's foreclosure rate rose from 5,322 foreclosures in 2006 to 6,448 in 2007, 7782 in 2008, and 8,522 (the peak) in 2009. Philadelphia Residential Mortgage Foreclosure Diversion Program: Initial Report of Findings, The Reinvestment Fund (June 2011), [www.trfund.com/resource/downloads/policypubs/Foreclosure\\_Diversion\\_Initial\\_Report.pdf](http://www.trfund.com/resource/downloads/policypubs/Foreclosure_Diversion_Initial_Report.pdf)

56 In Fiscal Year 2007, \$3,964,000 of CDBG funding was allocated for "Neighborhood and Citywide Housing Counseling" in the City's Consolidated Plan. In Fiscal Year 2008, \$3,977,000 was allocated to housing-counseling agencies. [www.phila.gov/ohcd/conplan%2033/Preliminary%20Plan%20Year%2033.pdf](http://www.phila.gov/ohcd/conplan%2033/Preliminary%20Plan%20Year%2033.pdf)

57 Notably, the city raised over \$100,000 in private funds for public-service announcements and other activities in low and moderate income neighborhoods that CDBG funds could not legally or easily cover due to restrictions on use.

**The city spent approximately \$3 million annually between July 2008 and June 2010 for foreclosure-prevention services.** While the media has stressed the fact that Common Pleas Court Judge Rizzo and her very effective clerk initiated the operation of the Diversion Program once a week in Courtroom 676 in addition to their heavy workload, they often neglect to mention the millions of dollars annually the city invests in supportive services, such as door-to-door outreach, hotline staff, housing counseling, and legal services. The courts initiated the foreclosure program, but it is the city that has made the decision to invest in it to provide outreach, counseling, and other supports. The city has funded the hotline alone with more than \$1 million of discretionary federal Community Development Block Grant funding since the city's foreclosure-prevention efforts began in 2008.

**Notably, funding levels for housing counselors and outreach workers has increased relatively little from previous years.** Philadelphia made the decision more than three decades ago to allocate millions of dollars of discretionary CDBG federal dollars annually to support housing counseling. Prior to the foreclosure crisis, the city funded housing counselors with approximately \$4 million annually, and their work focused far more on pre-purchase counseling than on default and delinquency mitigation.<sup>56</sup> Once foreclosure prevention became a priority, the city added thousands of dollars of federal stimulus money to this large base amount. In the chart on the following page, we attribute one third of counseling dollars during FY2009 and 2010 to foreclosure prevention, because that is the city's best estimate. The Neighborhood Advisory Committees (NAC) were funded at the same levels annually before and after they took on the task of foreclosure-prevention outreach. New outreach funding was required only to cover the few neighborhoods with no active NAC. Community Legal Services received \$220,000 annually during FY 2007 and 2008 for anti-predatory lending activity, and this amount rose to \$330,000 after 2008, when the focus shifted to foreclosure prevention. The fact that many of the costs associated with foreclosure prevention are continuing costs that were incurred prior to the Diversion Program being established makes it difficult to assess the total additional cost to the city of providing these services.<sup>57</sup>

**While data is limited, we can estimate that the city paid approximately \$750 to provide assistance** to each of the approximately 11,200 homeowners who utilized public programs and services to avoid foreclosure during the initial three years of the city's foreclosure prevention efforts. This rough estimate takes the average annual city expenditures on foreclosure prevention for fiscal years

## Resources for Philadelphia's Existing Homeowners

PURPOSE	AMOUNT	SOURCE
<i>Fiscal Year 2010 (July 1, 2009 to June 30, 2010)</i>		
Hotline	\$570,000	CDBG (\$170,000) + ARRA (\$440,000)
Door-to-Door Outreach	\$156,500	CDBG (\$9,500 + \$70,000 estimated costs of NAC Participation <sup>58</sup> ) + \$77,000 in privately raised funds
Housing Counseling	\$1,650,000	CDBG (\$1,225,000) <sup>59</sup> + ARRA (\$250,000) + HPRP (\$175,000)
Legal Services	\$350,000	Fund Community Legal Services with ARRA (\$300,000) and CDBG (\$50,000)
Public Awareness	\$50,000	ARRA
<b>Fiscal Year 2010 Total</b>	<b>\$2,776,500</b>	
<i>Fiscal Year 2009 (July 1, 2008 to June 30, 2009)</i>		
Hotline	\$441,440	CDBG (\$340,000) and private fundraising (\$101,440)
Door-to-Door Outreach	\$49,500	CDBG (\$39,500), Mayor's Office of Community Services performed early outreach (\$10,000 estimated cost)
Housing Counseling	\$1,966,000	General city funds (\$566,000) + CDBG (\$1,225,666, or one third of total counseling allocation of \$3,677,000) + HPRP (\$175,000)
Legal Services	\$350,000	CDBG (Community Legal Services funded)
Public Awareness	\$50,000	Private fundraising
<b>Fiscal Year 2009 Total</b>	<b>\$2,856,940</b>	
<b>Total for Fiscal Years 2009 and 2010</b>	<b>\$5,633,440</b>	

**ARRA:** American Recovery and Reinvestment Act; **CDBG:** Community Development Block Grant  
**HPRP:** Homelessness Prevention and Rapid Re-Housing Program; **NAC:** Neighborhood Advisory Committee

2009 and 2010—\$2.8 million—and assumes the same annual expenditures for the following year, for a total of \$8.4 million spent by the city to help 11,200 at-risk homeowners over three years. Dividing \$8.4 million by 11,200 gives us a rough average cost of \$750 per homeowner household.<sup>60</sup>

**A rough estimate of the cost to the city of saving a home is \$3,300 per homeowner household.** Based upon data from The Reinvestment Fund, this estimate is by no means precise, but it helps us begin to understand the cost of preventing foreclosure. The estimate is based upon TRF's finding that approximately

**58** The city budgets \$1.7 million for NACs annually but estimated the outreach cost as \$70,000. NAC funding was not increased to take on outreach duties.

**59** This is a conservative estimate, reflecting only one third of the total \$3,677,000 funded for housing counseling in this fiscal year.

**60** During this same period, Pennsylvania Housing Finance Agency approved 1,025 HEMAP loans and closed 623 HEMAP loans. Since there is no way to determine whether the households who received loans also participated in the Diversion Program, we do not account for those helped by HEMAP.

**61** Based on weak housing-market performance and low residential market values, the majority of foreclosed properties in Philadelphia are predicted to become long-term vacant without intervention. Once vacant for even a short time, it is common in Philadelphia for the home to be gutted of anything of value by vandals. A home that was habitable before foreclosure will now cost tens of thousands of dollars to be made viable again. Since market values rarely support a significant investment to rehabilitate the home, it is typically up to the city to subsidize

*the rehabilitation or demolition of the unit or to continue to pay \$500 annually to keep it clean, sealed, and up to code.*

**62** Kevin Gillen and Ira Goldstein, *Empirical Results on the WCRP Barriers-to-Affordability Study (2007)*

**63** Econsult Corporation, Penn Institute for Urban Research, and May 8 Consulting, *Vacant Land Management in Philadelphia: The Costs of the Current System and the Benefits of Reform (2011)*. (City spends over \$20 million to maintain abandoned properties, with an average of \$500 per property, but some properties cost tens of thousands of dollars.) [http://may8consulting.com/publications/Vacant\\_Land\\_Reform-REPORT.pdf](http://may8consulting.com/publications/Vacant_Land_Reform-REPORT.pdf); William Apgar, *The Municipal Cost of Foreclosures: A Chicago Case Study (Feb. 27, 2005)*. (Finds costs per home range from \$27 for a home that is sold at auction and is immediately reoccupied to \$34,000 for a vacant home with serious criminal activity, extreme levels of dumping, or a fire that spreads to adjacent homes and businesses.) [www.995hope.org/content/pdf/Apgar\\_Duda\\_Study\\_Full\\_Version.pdf](http://www.995hope.org/content/pdf/Apgar_Duda_Study_Full_Version.pdf)

**64** 2010 Annual Homeless Assessment Report to Congress, U.S. Department

1,000 homeowner households reached agreements with their lenders/servicers during the first year of the Diversion Program, when the city spent approximately \$2.8 million to finance foreclosure-prevention services. Most of these agreements appear to have allowed the homeowner to save their homes, but not all. Of all those homeowner households who reached an agreement in the first year, 85% remained in their homes 18 or more months later, according to TRF. Resolving the foreclosure for each of the 1,000 households that achieved agreements cost the city approximately \$2,800 per household. If we limit our analysis solely to the 85% with agreements that remained in their homes 18 months later, the cost to the city is \$3,300.

### **The potential cost burden to the city, national taxpayers, and Philadelphia residents of a property becoming vacant after foreclosure is far higher than the cost of resolving the foreclosure.**<sup>61</sup>

Philadelphia has approximately 40,000 vacant properties. Housing supply (640,000 housing units) exceeded demand (573,000 households) by over 67,000 units in 2007.<sup>62</sup> Each foreclosed property threatens to add to this significant inventory. A single foreclosed home can cost the city more than \$30,000 if left vacant. Direct costs to the city to maintain, clean and seal, demolish, or respond to fire or criminal activity at the property are estimated to range from \$500 to \$30,000.<sup>63</sup>

**The neighbors and taxpayers bear other costs as well.**<sup>64</sup> For instance, every resident with a house near a foreclosed property loses approximately \$8,000 in home value, limiting home equity that can be used to educate their children, start a business or retire.<sup>65</sup> Some of those who lose their homes will end up in homeless shelters, adding to the 6,000 individuals and families who needed shelter in Spring 2011.<sup>66</sup> A senior who loses a home to foreclosure may end up in a nursing home prematurely and thus would require \$40,000 each year in taxpayer subsidy for shelter and care.

## Potential Five-Year Cost of Ten Seniors Who Lose Homes to Foreclosure

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**NURSING HOME COSTS: \$2,000,000**

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**LOSS OF VALUE TO TWO ADJACENT NEIGHBORS: \$160,000**

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**COST TO MAINTAIN VACANT HOMES: \$25,000**

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**TOTAL COST: \$2,185,000**

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## Foreclosure Prevention Is a Cost-Effective Intervention

### Dollars spent on foreclosure prevention reduce dollars spent on long-term vacant properties:

**\$750** *Estimated cost to provide foreclosure-prevention services to a Philadelphia homeowner household*

**\$3,310** *Estimated cost to provide foreclosure-prevention services that result in saving a home from sheriff's sale*

### If Philadelphia did not provide these services, costs the city would incur include:

**\$500-\$34,000** *Annual cost to maintain and provide police and fire protection to a vacant property*

### When families are unable to recover economic independence, local and national taxpayers incur such costs as these:

**\$21,000** *Annual cost to keep a family in a homeless shelter*

**\$40,000** *Annual cost to keep a senior in a nursing home<sup>67</sup>*

### Rehabilitating a vacant property to return it to market after foreclosure carries a high average price tag:

**\$85,000-\$90,000** *Average rehabilitation cost per basic row home<sup>68</sup>*

### Neighbors also pay a price, as the foreclosed property brings down nearby home values:

**\$8,000** *Average loss of value to homes located near a foreclosed property*

*of Housing and Urban Development (2011), [www.hudhre.info/documents/2010HomelessAssessmentReport.pdf](http://www.hudhre.info/documents/2010HomelessAssessmentReport.pdf)*

<sup>65</sup> \$8,000 reflects only property-value declines caused by nearby foreclosures, not other price drops associated with the slowdown in local housing markets.

<sup>66</sup> Lin, Jennifer. "City's Family Shelters Are Filling Up Faster, Sooner." *Philadelphia Inquirer* 14 June 2011. Web. [www.philly.com/philly/news/breaking/20110614\\_Citys\\_family\\_shelters\\_are\\_filling\\_up\\_faster\\_\\_sooner.html?page=1&c=y](http://www.philly.com/philly/news/breaking/20110614_Citys_family_shelters_are_filling_up_faster__sooner.html?page=1&c=y)

<sup>67</sup> Nursing home costs are typically paid under state and federal health insurance programs.

<sup>68</sup> Vacant properties rehabilitated by the City of Philadelphia Redevelopment Authority using Neighborhood Stabilization Program II dollars required approximately \$85,000 to \$90,000 of government subsidy to return each to market. Interview with John Carpenter, deputy director, City of Philadelphia Redevelopment Authority on May 25, 2011

## APPROACH PRESENTS A MODEL FOR OTHER CITIES

**The Diversion Program is replicable and scaleable** when a jurisdiction is located in a judicial foreclosure state, has the ability to identify homeowners at risk of foreclosure, and has substantial counselor capacity.

**Philadelphia offers a promising model as other jurisdictions struggle to establish new programs and services to assist homeowners facing foreclosure.** Court-supervised negotiations can be mandated in virtually all judicial-foreclosure states as a part of their case-management powers. Early mandatory notice to at-risk homeowners can allow for early outreach. Housing counselors have proven to be the lynchpin in Philadelphia's model, so a jurisdiction must have counselor capacity to meet homeowners in person and work with them to find solutions that will allow them to avoid foreclosure.

**Philadelphia's approach provides a credible option for jurisdictions** with some of the highest foreclosure rates in the city because it allows for hundreds of negotiations to occur simultaneously between homeowners and their lenders/servicers. Eight key precedents that allowed Philadelphia to offer effective foreclosure-prevention services are listed on the following pages. A jurisdiction with these key features in place will need to review the recommendations in this report to improve upon Philadelphia's early efforts and thereby to ensure enhancements, from accurate data collection to alternative assistance paths for homeowners with high medical costs.



## KEY PRECEDENTS

69 *Pa. Rules of Civil Procedure 3121(b)(2) and 3183(d)(3)*

**1 The authority for the Diversion Program comes from the courts' powers in a judicial-foreclosure state.** Pennsylvania is a judicial-foreclosure state, so the Common Pleas Court has jurisdiction over every case and the authority to stay foreclosure sales for “any legal or equitable reason.”<sup>69</sup> Once a case has been stayed, the court’s case-management powers allow it to require mediation in cases involving owner-occupied properties.

**2 Mandatory early notice to delinquent homeowners allowed the early identification of at-risk homeowners.** Pennsylvania requires lenders/servicers to notify homeowners who are 60 days delinquent of the risk of foreclosure. Act 91 notices, sent when a household is at least 60 days delinquent, allowed the courts and state to identify at-risk homeowners and contact them relatively early in the process.

**3 Strong leadership is needed to get a new program up and running and to ensure participation of all stakeholders.** Judge Annette Rizzo of the Common Pleas Court is a strong, independent leader who has demonstrated that she can bring diverse groups to the table to address foreclosure prevention. Judge Rizzo is able to command unprecedented cooperation from city agencies and the bar due to her position as a respected judge and her personable, inclusive style.

**4 Sufficient housing counselors to meet with thousands of homeowners are required.** Philadelphia has an extensive, well-funded housing-counseling network. For over thirty years, Philadelphia has taken the unusual action of funding housing counselors with CDBG dollars. While the counseling network had to ramp up significantly to be able to serve the thousands of homeowners facing foreclosure, the infrastructure was in place, including some experienced, skilled counselors who trained new counselors during the early months of the program.

*70 In February 2002, the Don't Borrow Trouble Hotline, seeded by Freddie Mac, was established to deliver advice to low-income victims of predatory lending.*

**5 Strong legal services firms and volunteer bar can be key players by acting as volunteer judges and representing clients with complex cases.**

Philadelphia's bar has played a critical role, with members acting as Judge Pro Tems to arbitrate the thornier cases, providing guidance in the courtroom. (A Philadelphia Legal Assistance lawyer, well versed in all relevant law, is present each Thursday to offer guidance to counselors and volunteer lawyers.) In addition, hundreds of volunteer lawyers have assisted with negotiations through Philadelphia VIP.

**6 A telephone hotline gives at-risk homeowners an immediate action they can take to get advice and schedule a meeting with a housing counselor.**

Philadelphia was able to quickly repurpose Philadelphia Legal Assistance's "Don't Borrow Trouble Hotline" into the "Save Your Home Philly Hotline" so it could advertise almost immediately and begin to set up appointments for homeowners with housing counselors.<sup>70</sup>

**7 Door-to-door outreach is a time-consuming but important part of outreach and contributed to the 70% participation rate.**

The city of Philadelphia funds 17 Neighborhood Advisory Committees (NACs) annually, so they were able to be quickly mobilized to carry out door-to-door outreach starting in Spring 2008. NACs agreed, without additional funding, to take lists of homeowners with scheduled conciliation hearings and knock on doors during weekends or evenings to ask homeowners to call the hotline and meet with housing counselors.

**8 To mobilize a city requires a clear understanding of the detrimental impact of foreclosures and the need for immediate, aggressive action.**

In 2008, Philadelphia already had approximately 40,000 vacant and abandoned properties and a clear understanding of the damage that foreclosed houses cause by reducing neighborhood property values, increasing crime, raising costs for government, and reducing tax revenues. Cities that had little experience with vacancy were slower to respond to the mortgage crisis.

## CONCLUSION

With a global financial crisis creating dramatic rises in local foreclosure rates in 2008, Philadelphia quickly and effectively created a foreclosure-prevention approach that connects homeowners to support and services so they will have a chance to avoid foreclosure. Philadelphia linked existing programs, such as the state HEMAP bridge-loan program, with newly established programs, such as the city's Diversion Program, which mandates negotiations between homeowners and lenders/servicers. Philadelphia has been rightly praised for its outreach, counseling, and mediation efforts. That said, Philadelphia will achieve better results and provide greater transparency and accountability if it transforms its efforts into an integrated system and fixes weaknesses identified in this study. Implementation of the eight recommendations in this report will raise Philadelphia's level and quality of service, increase successful outcomes, and create greater transparency. This study also shares a detailed explanation of how the Philadelphia approach functioned over the past three years so that other jurisdictions may consider adopting this foreclosure-prevention approach with an assurance of its applicability and effectiveness. Continued data collection and analysis are critical to allowing a complete evaluation of foreclosure-prevention efforts in Philadelphia in the years to come.

# GLOSSARY

**ARRA:** American Recovery and Reinvestment Act  
**CDBG:** Community Development Block Grant  
**CLS:** Community Legal Services  
**EHLP:** Emergency Homeowners' Loan Program  
**FHA:** Federal Housing Administration  
**HEMAP:** Homeowners' Emergency Mortgage Assistance Program  
**HAMP:** Home Affordable Modification Program  
**JPT:** Judge Pro Tem  
**NAC:** Neighborhood Advisory Committee  
**OHCD:** Philadelphia's Office of Housing and Community Development  
**PLA:** Philadelphia Legal Assistance  
**PHFA:** Pennsylvania Housing Finance Agency  
**PHLP:** Pennsylvania Health Law Project  
**RHLS:** Regional Housing Legal Services  
**TRF:** The Reinvestment Fund  
**VIP:** Philadelphia VIP

**Rachel Blake, Esq.**

**RHLS Team: Mark Schwartz, Esq.**

**Karen Black**

**Author: May 8 Consulting**

**Andee Mazzocco**

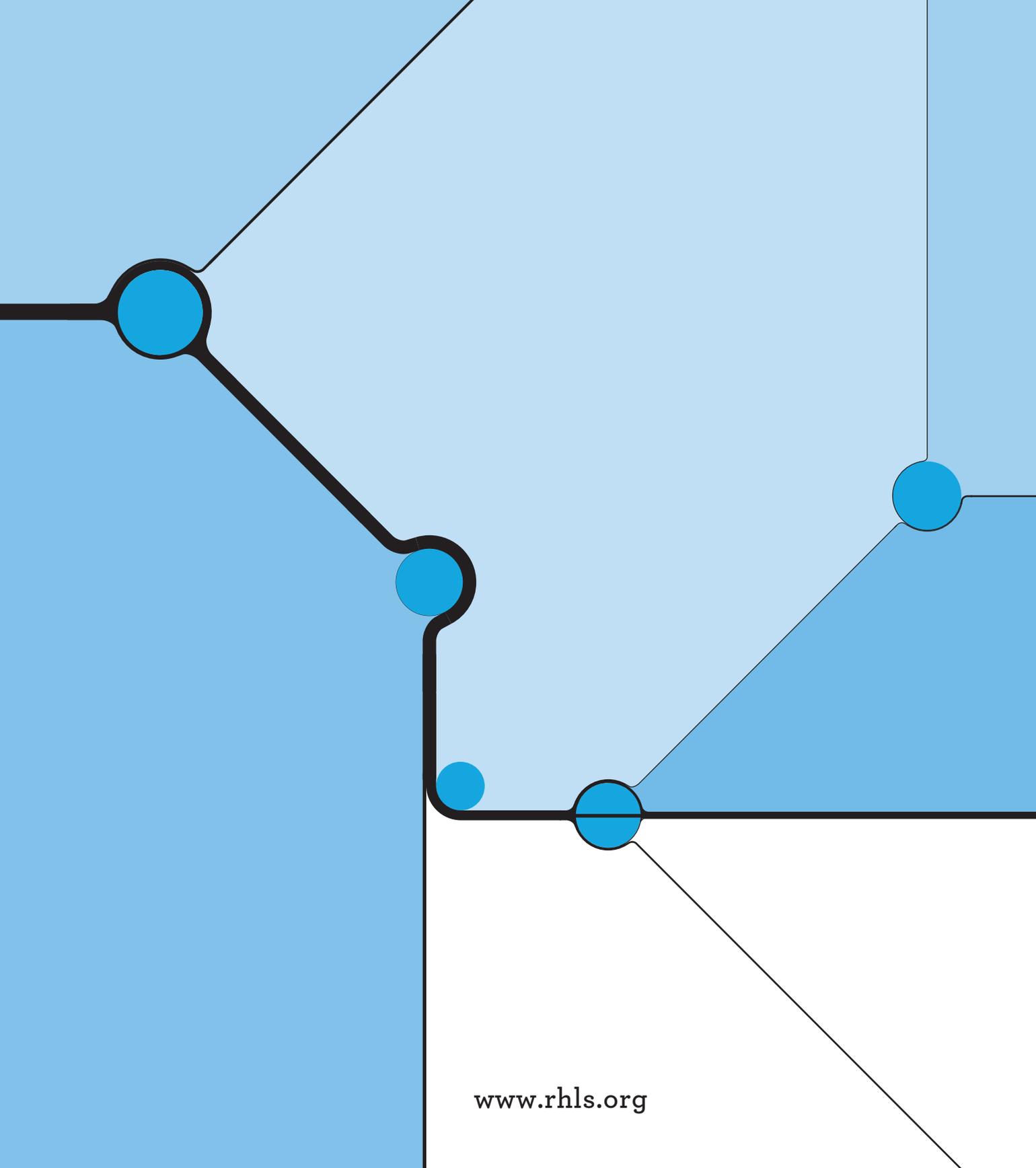
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