Front lines of foreclosure

Response to crisis includes land banks, multi-state investigations and new aid for distressed borrowers

by Tim Anderson (tanderson@csg.org)

The problem of “problem properties” for a town like the Michigan city of Flint may appear at first blush to be too large, too insurmountable to tackle. The city of about 100,000 people, former Genesee County treasurer Dan Kildee says, has approximately 18,000 abandoned properties. Already struggling with the chronic blight common to an economically distressed city, Flint has been hammered in recent years by the foreclosure crisis affecting communities across the country.

But Kildee says taking a micro-level look at the problem can make it more manageable: Take care of one property, and assist one group of families, at a time. Close to a decade ago, with the hope of a change in Michigan state laws, Kildee spearheaded creation of the Genesee County Land Bank, the nonprofit entity created to address Flint’s problem properties that has since become a model for action in other states and communities.

“Too often, when a problem is big, there is a reluctance to do anything incremental,” he says. “But over time, the incremental approach can become transformative.” And for families, the work of these land banks has immediate effects: A blighted piece of property dragging down home values and attracting criminal activity is replaced with a rehabbed home, an urban garden, new development or well-maintained open space.

“You’ve changed the lives of five or six families that live around that property,” Kildee explains. “We’ve done that kind of thing about 1,500 times in the last seven or eight years through the land bank.”

Unfortunately, the national housing crisis and economic downturn mean there are many more families, neighborhoods and cities looking for answers to the problem of vacant and foreclosed properties.

Flint was never alone, but it has a lot more company these days.

“A few years ago, we started hearing from communities that we never could have imagined would have interest in our work — places that seemed bulletproof,” notes Kildee, who now heads up the nonprofit Center for Community Progress, which advocates for land-bank legislation and for changes in state tax foreclosure systems.

‘Mess on the ground’

In addition to contributing to the recent national recession, the rise in foreclosures is widely seen both as a symptom of broader economic woes and as an impediment to recovery.

“We haven’t seen anything like this since the 1930s,” says Valparaiso University law professor Alan White, noting that foreclosure rates are four times higher than historic averages.

At a congressional hearing held in September, federal lawmakers were told that nearly 20 percent of homeoweners were now at risk of losing their homes.

Few states are experiencing the ill effects of foreclosure more than Ohio.

“People say jobs and economic growth are the best way out of this, and I agree,” Ohio Democratic Rep. Dennis Murray says. “But in the meantime, what do you do with the mess already on the ground?”

Part of the answer in Ohio has been to replicate the land-bank idea pioneered in Michigan. Two years ago, HB 353 was signed into law, giving hard-hit Cuyahoga County the authority to establish a nonprofit entity to run a land bank. Last year, the legislature agreed to expand land-bank authority to other counties (HB 313).

“We’ve got a chaotic situation here for our local governments to deal with, to protect themselves, to protect the public interest,” said Rep. Murray. "Part of the answer to that is the land bank.”
so the land banks really are an essential way to help them organize and deal with all of the vacant property,” explains Ohio Democratic Rep. Mike Foley, who represents part of Cuyahoga’s largest city, Cleveland.

Guillermo Frangos, president and general counsel of the Cuyahoga County Land Reutilization Corp., points to three key components of the new land banks being established in Michigan and Ohio.

First, the authority running the land bank has the power of the government to acquire delinquent, tax-foreclosed properties while also enjoying the autonomy of a corporation. Second, state tax fore-
closure systems are reformed, so that properties can go straight from foreclosure to the land bank and kept out of the hands of speculators.

Third, the land bank is given a dedicated revenue source. In Cuyahoga County, the penalties and interest from delinquent property taxes and assessments are used to fund the land bank.

“The significance of the revenue stream is not the amount, but that it is reliable, so you can bond it and leverage it,” Frangos explains.

The goal of the land bank is to use its power and resources to take care of blighted properties and find a productive use for them.

To that end, the Cuyahoga County Land Reutilization Corp. has entered into agreements with Fannie Mae, the U.S. Department of Housing and Urban Development, and leading banks to get tax-foreclosed properties. The goal is to see these entities’ vacant or low-value properties into the hands of the land bank.

Thus far, the county’s land bank has taken on 1,300 properties.

All eyes on attorney generals

The rise in the use of land banks is just one of many examples of how states have responded to the foreclosure epidemic.

The first wave of state legislative action aimed to stop predatory lending practices, a move that Professor White says did have a positive effect. Yet factors largely beyond states’ control still led to an alarming rise in foreclosures.

As a result, the focus of activity is now on helping troubled borrowers and whole communities.

State lawmakers, meanwhile, continue to pursue strategies on their own. In Ohio, Reps. Foley, Murray and others have pushed for measures that would regulate servicers, add a foreclosure-filing fee (with the money going to support loan modifications), and require lenders with a foreclosure judgment on a property to proceed to a sheriff’s sale within 60 days.

Hardest Hit Funds in targeted states

Ohio is also one of four Midwest states (along with Indiana, Illinois and Michigan) with a “Hardest Hit Fund.” Created by the U.S. Department of Treasury and run through state housing finance agencies, the fund is targeted for states that have high unemployment rates and/or have had steep declines in housing values.

To date, Ohio’s Hardest Hit Fund program has helped more homeowners than any other in the nation. It provides up to $15,000 in emergency as-
sistance to a homeowner suffering from some type of financial hardship, most commonly unemploy-
ment. This money is used to get a homeowner up to date on a delinquent mortgage, to make partial mortgage payments, or to provide incentives for a servicer to modify a loan.

“People want to hold on to their homes, and in many cases, they can’t sell even if they want to,” says Cynthia Flaherty, director of homeownership for the Ohio Housing Finance Agency.

“Taxes don’t necessarily align with those of the borrower and investor. In fact, they say, the servicers often have a financial incentive to pursue foreclosure.

Those misaligned interests can conflict with what White says should be a national priority over the next three or five years: “Maximizing loan workouts and minimizing actual foreclosure sales.”

That is one reason negotiations between the 50 state attorneys general and the nation’s leading mortgage servicers are being watched so closely.

Iowa Attorney General Tom Miller has been lead-

ing the investigation into alleged improper activities by leading mortgage servicers, including the practice of “robo-signing” foreclosure documents. His office is also taking the lead role in settlement negotiations.

“We’re trying to substantively change the servicing practices and standards related to foreclosure, and that will be a real sea change for consumers,” says Geoff Greenwood, communications director for the Iowa attorney general.

The negotiated settlement could:

• establish new standards for servicers;
• eliminate the practice of dual tracking (in which the servicer pursues foreclosure at the same time it is renegotiating with the borrower); and/or
• require or provide incentives to servicers to modify loans (principal reduction, for example) in cases where modification makes sense for the bor-
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