

Remarks by Barry R. Wides
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at the
HUD Summit on Housing: Partnering for Responsible Policy
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Thank you for the opportunity to join you today. Over the next few minutes, I'd like to speak to you about the rising number of mortgage defaults and foreclosures, and opportunities for banks to partner with state and local organizations to mitigate their negative effects on your communities.

As many financial institutions have said, a sustainable workout is often more cost-effective than foreclosure, and it's certainly less disruptive than the destabilizing impact that vacant and foreclosed properties can have on families and communities. The federal bank regulatory agencies have encouraged lenders to work with distressed homeowners to avoid foreclosure and to try to keep borrowers in their homes whenever feasible.

In an attempt to monitor these efforts, OCC spearheaded a project to collect mortgage metrics data from the largest financial institutions. The OCC and the Office of Thrift Supervision (OTS) now cooperate in this effort, and the newly created Federal Housing Finance Agency has started collecting and disseminating data for Fannie Mae and Freddie Mac, as well.

These reports all show that loss mitigation efforts, repayment plans, and loan workouts are on the rise. The OCC/OTS Mortgage Metrics report found that the mix of

loss mitigation shifted toward loan modifications from the first to the second quarter of 2008, with the share of loan modifications increasing from 34.5 percent to 44.5 percent. This is a hopeful trend, because loan modifications can often offer homeowners a more sustainable solution and reduce the losses incurred by lenders.

The Hope for Homeowners program offers another solution. HUD has moved expeditiously to implement this important program. This program offers another tool for lenders to help homeowners avoid foreclosure and regain their financial footing by refinancing into a 30-year fixed rate FHA mortgage with a payment they can afford. The original lender must agree to reduce the outstanding principal on the original loan to bring the new refinance loan amount to 90 percent of current market value, but participation is voluntary. Everyone here today is interested in seeing the results of this important avenue for borrower help.

Even with these promising initiatives, however, many lenders and communities are now facing a growing number of foreclosure properties. Recently, Barclays Capital estimated there are 721,000 bank-owned properties in the United States, up from 112,000 two years ago, and they projected the current figure will rise by 60 percent before peaking in late 2009.¹

With this growing number of foreclosures comes the growing need to dispose of these properties in a manner that supports the revitalization of those communities that

¹ James R. Hagerty and Jonathan Karp, "Banks Incur Housing Pain — Foreclosures in U.S. Are Sold At Big Losses," *The Wall Street Journal Europe*, August 14, 2008.

have been hit hardest. HUD has moved quickly to implement its Neighborhood Stabilization Program, which will provide state and local governments with funds to use to acquire and redevelop foreclosed properties. I want to applaud HUD for hosting this conference today, and to offer a few suggestions to help us all work productively together to solve this crisis.

During the late 1980s and early 1990s, I was involved in a similar effort to dispose of the assets of failed thrifts. The Resolution Trust Corporation, the agency charged with this task, sold over 100,000 units of rental housing that were preserved by state and local affordable housing providers in communities across the country at a much lower cost than building these units from scratch. While those were tough times for our communities and our nation, many local government agencies and community organizations found this to be a unique opportunity to obtain properties for use as affordable housing, often, at below the cost of constructing or rehabilitating comparable rental housing.

One of the first challenges anyone wishing to transform foreclosed properties into affordable housing today faces is how to find out which bank owns or is servicing a property that you have identified. Two of the handouts I brought today will help with that. The first is a simple illustrated guide for using the Mortgage Electronic Registration System or MERS "Servicer ID" website. If a property is registered by the lender with MERS, you will be able to identify the loan servicer simply by typing in the property address. Once you have identified the owner of the property, you then can use our

servicer contact sheet to obtain the phone numbers to contact the lender about the property. Many of the lenders also list their foreclosed properties available for sale on these sites and those web addresses are provided on this contact sheet as well.

Both of these resources are available on the Community Affairs Department's Neighborhood Stabilization page on the OCC's Web-site.

I'd like to spend the next few minutes discussing some of the approaches national banks have been taking to facilitate community partnerships for preserving foreclosed properties, and the steps that the OCC is taking to facilitate these initiatives by spreading the word about best practices and success stories.

In July, the OCC co-sponsored a conference with the Federal Reserve Bank of San Francisco and the Federal Deposit Insurance Corporation, which focused on bank partnerships with community development organizations and local governments to mitigate the negative effects of rising foreclosures on communities. Over 350 people attended this conference where more than 40 community-based organizations, banks, and public agencies delivered presentations on community stabilization strategies.

The strong showing at that conference demonstrates the high level of interest and concern about these issues. It proved there is a significant confluence of interest among banks, loan servicers, community organizations and government agencies to move quickly to stabilize communities and bring these foreclosed properties back into

productive use. Those of you interested in learning more about these initiatives can access the conference proceedings on the OCC's Neighborhood Stabilization Web-page.

Although it is clear that banks are motivated to avoid losses associated with foreclosures, the incentive for banks to make concessions on their foreclosed property sales may be less clearly apparent—but they do exist. The holding costs, decline in property values, and reputational risks related to foreclosed properties can be significant, so banks want to dispose of properties, as quickly as possible.²

Another incentive is the possibility to earn Community Reinvestment Act, or CRA, consideration for certain foreclosed property related initiatives. This is important to banks for several reasons,³ and there are a number of foreclosed property related activities that could earn CRA credit. Under the CRA, bank donations made to organizations whose primary purpose is consistent with the definition of community development may be considered qualified investments. A foreclosed property may be donated or sold at a discounted price to a third party entity⁴ to use for a qualified CRA

² Studies show that vacant and abandoned foreclosed properties also impose high costs on communities, lowering property values and increasing the cost of services. See for example, "\$60 Million and Counting: The Cost of Vacant and Abandoned Properties to Eight Ohio Cities," *ReBuild Ohio*, February 2008.

³ The OCC and other bank supervisory agencies must evaluate the CRA record of each covered depository institution in helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with safe and sound banking practices. A bank's CRA record will be taken into account when the agency is deciding whether to approve a bank's application for a deposit facility, which includes any application to establish a branch, relocate a main office or branch, merge with or acquire another insured depository institution, or receive a banking charter.

⁴ Third party recipients may include a local government or a nonprofit community development organization. CRA consideration would apply to the portion of the in-kind donation that represents the difference between fair market value and the discounted sales price of the property.

purpose, such as providing affordable housing for low- or moderate-income renters or homebuyers. The specifics related to CRA consideration for these activities are described in an article from an OCC publication that is included in your conference package.

Another component of CRA is community development lending. This includes loans to borrowers for affordable housing rehabilitation, as well as loans to nonprofit organizations serving primarily low- or moderate-income housing or other community development needs. Loans to financial intermediaries, including Community Development Financial Institutions, Community Development Corporations and community loan funds, also may be treated as community development loans and qualify for positive CRA consideration.

Technical assistance to organizations whose primary purpose is consistent with the definition of community development may also receive favorable CRA consideration as a community development service. Examples of this include lending bank employees to an eligible project or helping a nonprofit to develop guidelines and standards for a foreclosed property acquisition and rehabilitation program serving primarily low- or moderate-income housing or other community development needs.

Now that I have covered how a bank can earn CRA consideration for these activities, I would like to turn to a discussion about some of the existing initiatives that

are up and running today and some of the opportunities to most effectively leverage the funding for foreclosed property acquisition and rehabilitation activities.

First, given the growing inventory of foreclosed properties, banks have a strong incentive to price properties competitively and even offer some special pricing incentives in order for the purchasers to be able to use the Neighborhood Stabilization Program, which requires at least a 5 percent discount on any property. In some cases, if values have declined precipitously or market value is minimal because the property is heavily damaged, banks are even donating properties to community organizations with the capacity to rehabilitate them or place them in land banks.

Second, a few national banks have created their own community development corporations to take the bank's foreclosed properties and make them available for affordable housing. With the OCC's prior approval, this can be done using the national bank public welfare investment authority. Some banks have also spoken to us about tying in their property disposition efforts with rental subsidy programs administered by local government and temporarily renting out properties to eligible borrowers until the market comes back. Others may be interested in working with first time homebuyer programs to match eligible purchasers up with available foreclosed properties.

In some cases, we have seen nonprofits or public agencies purchase non-performing mortgage notes. Under this approach, the purchasers can modify the loan, providing an opportunity for the borrower to come current on the mortgage. This method

may not be appealing to a nonprofit organization or public agency if there is a chance that the borrower would fail and foreclosure become necessary. However, where the current homeowner has vacated the property, we have heard of instances where government agencies and nonprofits have bought the nonperforming loan, completed the foreclosure process, and rented or sold the property. This approach could be particularly effective in states with long redemption periods.

Banks may also invest in funds that are working to acquire and rehabilitate foreclosed properties for affordable housing. National banks may use the public welfare investment authority to invest in these funds primarily benefiting low- and moderate-income individuals or areas, as well as in communities targeted by a government agency for revitalization.

Low Income Housing and New Markets Tax Credits have also been used to acquire and rehabilitate foreclosed housing for rental or sale to eligible low- and moderate-income individuals and families. In one instance, the Low Income Housing Tax Credit is being used for a lease purchase initiative. Another creative initiative used a New Markets Tax Credits to help fund a down payment assistance program that was paired with a shared equity feature that will permanently enhance affordable housing opportunities. National banks can invest in these credits using the public welfare investment authority, and if these investments meet the geographic targeting requirements of CRA, they also may be eligible for positive consideration under the Community Reinvestment Act.

OCC is cataloging these initiatives as part of our efforts to facilitate constructive partnerships. We are in the process of developing a report which outlines several of these initiatives, as well as how banks can earn CRA consideration for these activities. It will be published soon and posted on the OCC's Neighborhood Stabilization Web page.

As an added resource, we have brought on board a new Community Affairs Officer, Vonda Eanes, to focus on neighborhood stabilization and serve as a resource for banks and communities developing foreclosed property-related initiatives. Her role will be to share best practices, provide guidance on regulatory issues, and explain to bankers how these initiatives can help their CRA performance.

Vonda has joined us at today's session. She is a National Bank Examiner and former bank CRA officer and will be a great resource to banks and communities seeking to develop stabilization strategies. I would encourage you to introduce yourself to her and the other OCC representatives attending this conference. We all look forward to meeting you during the course of the conference and hearing what role the OCC might play in your efforts to mitigate the effects foreclosures in your community.

Once again, thanks to you and to HUD for inviting me to participate in this very important symposium.