



The Research Bureau

Foreclosure in the City of Worcester

Report 17-07

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Research in the Public Interest

Worcester Regional Research Bureau, Inc.

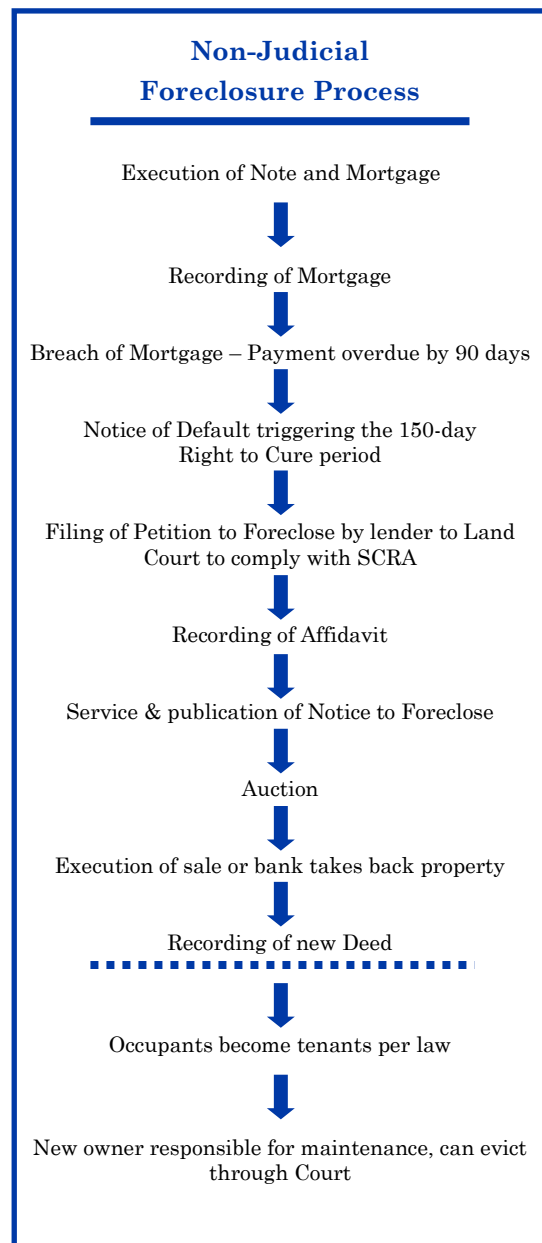
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The Great Recession, affecting communities across the country beginning in 2007, resulted in a significant increase in property foreclosures in the City of Worcester. With rising unemployment, homeowners were unable to make mortgage payments and the drop in housing prices meant that properties could not be sold to cover outstanding debt. The number of petitions to foreclose, the first step in the foreclosure process, increased 83% in Worcester from 736 in 2006 to 1,350 in 2007. Foreclosures can have a devastating effect on individuals and families, but properties slated for foreclosure, experiencing significant disinvestment and a lack of maintenance, also “present a danger to the safety and welfare of public safety officers, the public, occupants, abutters and neighborhoods and...constitute a public nuisance” (Worcester’s Vacant and Foreclosing Property Ordinance). By 2011, Worcester had returned to pre-recession foreclosure rates, however in 2015 the number of petitions to foreclose increased once again. Was this increase the start of another foreclosure crisis or just part of the normal cycles of the Worcester housing market? Although a trend has not developed, what more, if anything, should the City do to mitigate the negative impacts of foreclosures on households and surrounding neighborhoods?

Foreclosure Process in Massachusetts

Foreclosure is the process by which a mortgagee (or lender) is able to recoup its loan by forcing the sale of a property due to the mortgagor’s (borrower’s) failure to make payments or otherwise meet the conditions of the loan. The Commonwealth of Massachusetts is a non-judicial foreclosure state, which means that it does not require a court order to authorize a foreclosure. Mortgages in Massachusetts grant lenders the power to sell a property for non-payment after providing notice to the borrower. Before the lender may start foreclosure proceedings, however, the Servicemembers Civil Relief Act (SCRA) requires that the lender file the complaint with the Massachusetts Land Court and receive a judgment that the borrower is not protected by the SCRA from foreclosure since he or she is not on active duty in the armed services. Once the bank has received the judgment, it may proceed with the foreclosure. While the process to foreclose has a legally defined timeline, the actual timetable can vary from less than a year to multiple years before the foreclosure process is finished on any particular property. After the formal foreclosure process is completed and a new deed is recorded, the original property owner may still be a resident of the home. In these cases, the new owner must evict the resident through the courts, which can add up to six months.

The foreclosure process in Massachusetts faced significant scrutiny during the recent economic crisis. In *US Bank National Association v. Antonio Ibanez* (458 Mass. 637) decided in 2011,



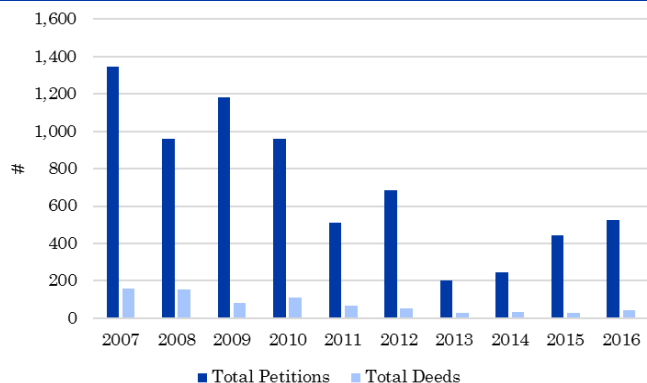
the Supreme Judicial Court of Massachusetts upheld the ruling of a trial court that invalidated many foreclosure sales since the notices of foreclosure named subsequent assignee lenders as mortgage holders, but they had not been formally assigned the mortgages until after the sales. Due to those errors, thousands of foreclosures and newly filed deeds were no longer valid. This decision, along with uncertainty about the passage of state legislation around foreclosure relief, resulted in many banks delaying foreclosure on properties. Recent court decisions and new laws, however, have clarified many of the legal questions and challenges surrounding the foreclosure process. *Haskins v. Deutsche Bank*, decided in November 2014, made it more difficult for borrowers to challenge a foreclosure based on clerical errors in the paperwork. *An Act Clearing Title to Foreclosed Properties*, which took effect on December 31, 2015, set up a process to clear titles of properties that had been invalidated by the *Ibanez* case. As a result, lenders have moved forward to finish foreclosures that had previously been suspended, which is likely the reason why there has been a recent increase in the number of foreclosures in Worcester.

Foreclosures are often measured by two metrics: “petitions to foreclose,” which are filed to initiate the foreclosure process and indicate that a property is at risk of foreclosure, and “foreclosure deeds,” which are filed to transfer ownership from the mortgagor to the highest bidder in a foreclosure auction.

Worcester’s Recent Experience

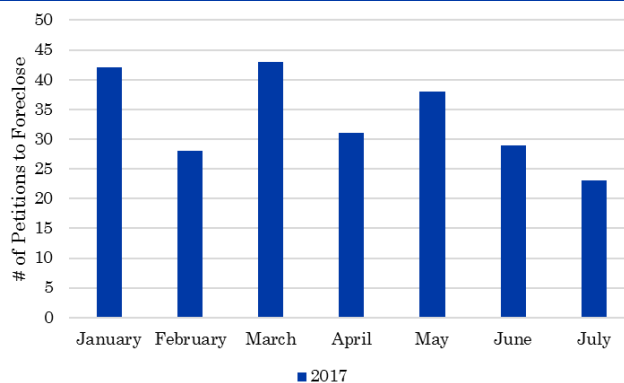
Chart 1 below explores petitions to foreclose and foreclosure deeds in Worcester from 2007 to 2016. Although the number of auctions and foreclosure deeds can be counted, petitions to foreclose is a better indicator of a particular year's economic conditions. Many properties never make it to an auction because after the initial petition homeowners 1) bring mortgages current by paying arrearages, 2) restructure mortgages to make payments more affordable, or 3) sell the property and repay the mortgage to avoid foreclosure. Actual foreclosures may not occur for a year or more after the petition to foreclose was issued, meaning the conditions that led to the foreclosure occurred well before the foreclosure itself. From 2006 to 2007, the first year of the recession, the number of petitions issued in Worcester increased by 83%. The number of petitions decreased from 2008 to 2013, but rose 21% in 2014, 80% in 2015, and 17% in 2016. Experts we spoke with suggested that the increases are a result of financial institutions clearing out longstanding issues rather than addressing new arrearages. While the increase in 2015 is the largest increase since the end of the recession, the number of petitions to foreclose is far lower than the number issued in 2007 at the height of the mortgage crisis. As illustrated in Chart 2, 234 petitions to foreclose have been filed in the first six months of 2017, which if trends continue will result in a decrease from the 523 petitions filed in 2016.

Chart 1: Worcester: Petitions to Foreclose & Foreclosure Deeds, Annual, 2007-2016



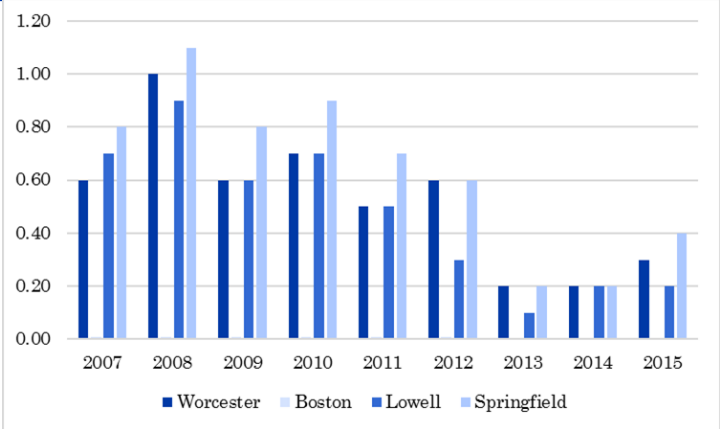
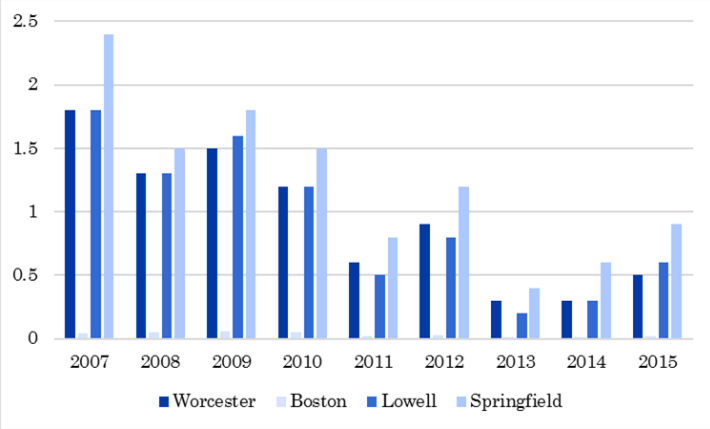
Source: The Warren Group

Chart 2: Worcester: Petitions to Foreclose, 2017



Source: The Warren Group

Chart 3: Petitions to Foreclose as % of Housing Stock, Select Cities, 2007—2015 **Chart 4: Foreclosure Deeds as % of Housing Stock, Select Cities, 2007—2015**



Sources: The Warren Group & U.S. Census Bureau, 2015 5-Year American Community Survey

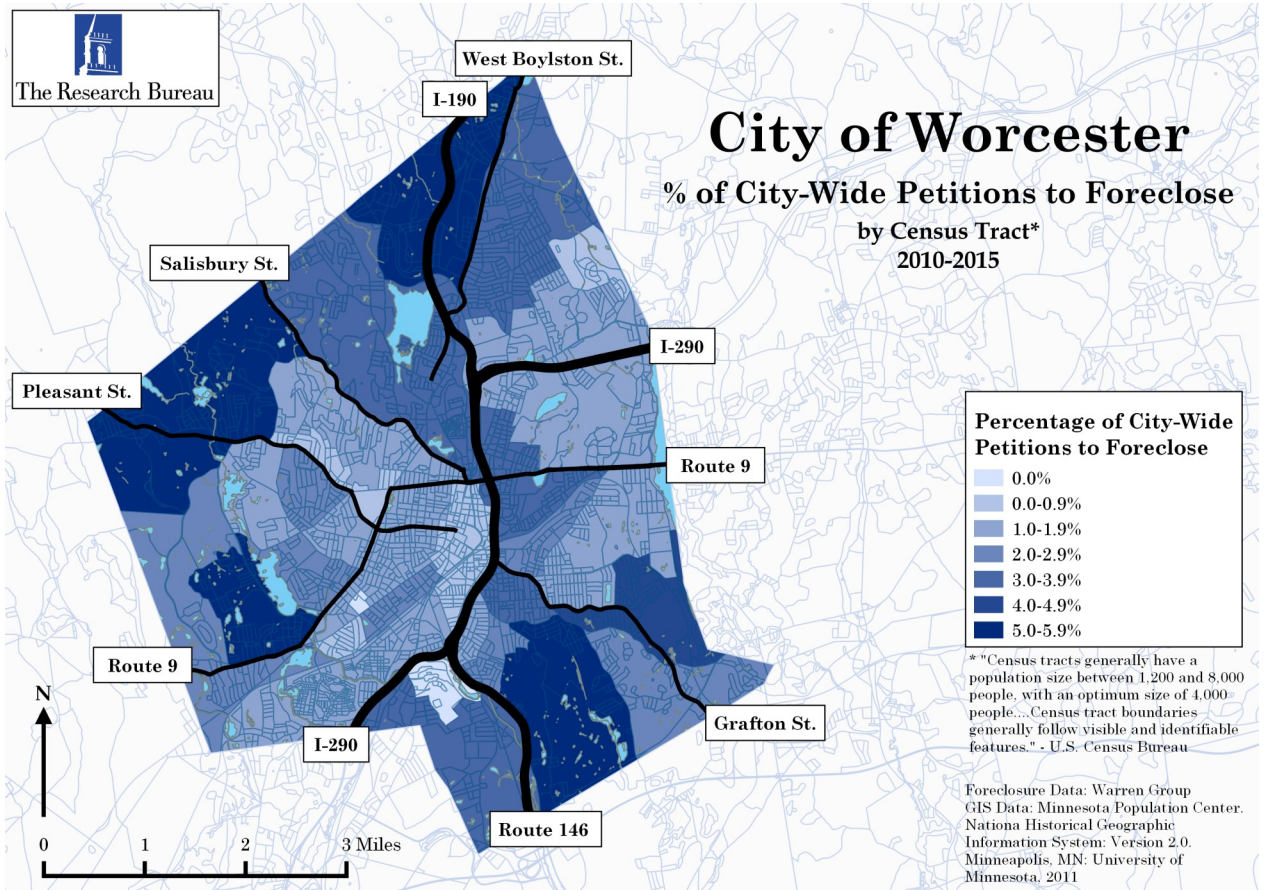
Charts 3 and 4 compare the number of petitions to foreclose, and the number of deeds issued, as a percent of housing stock for the cities of Worcester, Boston, Lowell, and Springfield. As evident from the charts, even in the most challenging periods, petitions and actual foreclosures are a minimal part of the overall housing stock—less than 2% of Worcester’s properties at the height of 2007. Boston has consistently had the lowest percent of petitions and Springfield has consistently had the highest. All four of the cities in the chart have seen a significant decrease from the first year of the recession. While the number of petitions increased by 78% in Worcester and by 20% statewide in 2015, this still only represents less than 1% of all units locally.

Mapping Foreclosure in Worcester

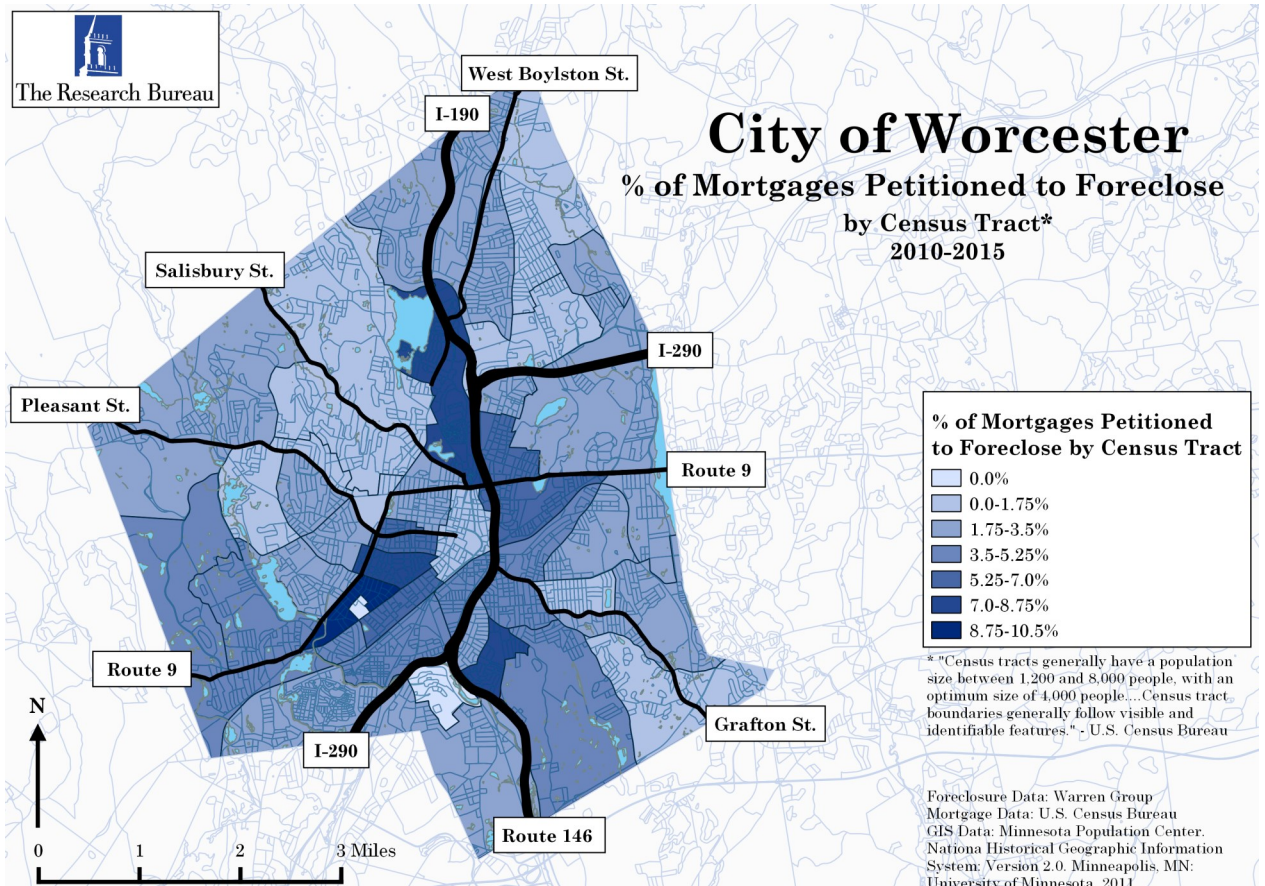
Foreclosures—and the lack of investment and maintenance that they bring both during the process and potentially following the transfer of ownership—are community concerns. Interestingly, in Worcester, most foreclosures actually occur in the city’s more economically stable neighborhoods. Maps 1 and 2 on Page 5 illustrate the number of Worcester foreclosures by neighborhood (Map 1) and as a percentage of each neighborhood’s total mortgages (Map 2). As Map 1 indicates, a significant number of the city’s 2015 petitions to foreclose occurred in Worcester’s West Side, one of the city’s more affluent areas. While seemingly counterintuitive, this is probably due to the fact that these neighborhoods have a larger

number of owner-occupied homes, leaving individual properties and mortgages more likely to be impacted by occupant job loss than rental and/or multifamily housing. However, when foreclosures are shown as a percentage of neighborhood mortgages (Map 2), lower income neighborhoods clearly experience a higher percentage of petitions to foreclose. In these neighborhoods, there are fewer mortgages since most households are renters. Owner-occupants are more likely to be lower income with limited assets beyond the home itself. The hardest hit areas have been the Main South, Greendale, Bell Hill, and Vernon Hill neighborhoods. Since nearly half of the petitions to foreclose issued in these areas were multi-family units, these foreclosures affect multiple households. On the West Side, only 17% of the foreclosed properties were multi-family units.

Map 1



Map 2



According to a 2005 study of Chicago by William C. Apgar of Harvard University's Joint Center for Housing Studies and Consultants Mark Duda and Rochelle Nawrocki Gorey for the Homeownership Preservation Foundation, municipalities, in addition to households, are impacted by foreclosures. Direct costs to municipalities can include increased police and fire responsibilities (due to vandalism and arson), inspections, demolition, legal costs, administrative costs, and an increased demand for services. In addition, foreclosure can lead to a direct loss of tax revenues. Property owners often stop paying taxes during foreclosure processes and while a lien can be placed on properties to recoup unpaid taxes, the process is time consuming. Demolition also lowers the value of the property and therefore tax receipts. Indirect costs to municipalities include the impact on housing prices—both for the impacted property and its surrounding neighborhood. Foreclosures can also impact a community's reputation—a subtle challenge that can impact overall economic growth of the community.

How Governments Manage Foreclosures and Vacant Properties

Under the Making Home Affordable initiatives, established in 2009, billions in federal aid were earmarked to reduce foreclosures. Over 2.2 million mortgages were involved in the program since its start. The Home Affordable Modification Program (HAMP) is the largest individual program and targets mortgage modification to reduce homeowners' monthly mortgage payments. In the Worcester Metropolitan Statistical Area (MSA), 6,792 mortgage holders were involved in the program with a median monthly payment reduction of \$487.35 — 36% of the pre-modification payment. These programs used interest rate reductions, term extensions, and principal forbearance to lessen the financial burden on households. Yet the Making Home Affordable initiatives are drawing to a close. States and localities, the government entities closest to the crisis, are trying different strategies to mitigate the impact of foreclosure on the community and in some cases the individual property owner.

In Massachusetts, the Office of Consumer Affairs and Business Regulation and the Office of the

Attorney General play active roles in the foreclosure process and in foreclosure prevention. The Massachusetts Office of Consumer Affairs and Business Regulation includes the Division of Banks, which oversees financial institutions and mortgage lenders. The office oversees the implementation of Chapter 206 of the Acts of 2007—*An Act Protecting and Preserving Home Ownership*—and provides basic assistance to homeowners and tenants, including a potential stay of foreclosure during the investigation of a complaint and referrals to both public and private foreclosure and tenant assistance programs. The Attorney General's Office established the HomeCorps in April 2012 using funds from a nationwide state-federal settlement over unlawful foreclosures. The stated goal of the HomeCorps is to "...mitigate future impacts of the foreclosure crisis by providing advocacy to distressed borrowers in Massachusetts facing foreclosure." The HomeCorps provides advocacy and legal assistance to those contesting a residential foreclosure. This includes funding for civil legal aid offices to provide required legal services.

In June 2014, the Commonwealth's Foreclosure Impacts Task Force released its Final Report. In the report, it worked to address two key elements of foreclosure: reducing post-foreclosure vacancies and foreclosure mediation. It encouraged a broad approach to addressing the issue of foreclosure, including, among others, encouraging short sales and deeds-in-lieu of foreclosure, principal reduction, registering distressed properties, tax incentives for rehabilitating vacant properties. It outlined, but did not specifically recommend, a series of best practices for foreclosure mediation. Despite internal dissent, the Task Force recommended that lenders establish programs allowing former homeowners to remain in a property as renters until it is resold.

According to the Supreme Judicial Court, the Massachusetts foreclosure statute (Chapter 244) preempts direct municipal involvement in foreclosures since "the foreclosure process is wholly a matter of State regulation absent an expression of a clear intent to allow local regulation" (*Easthampton Savings Bank v. City of Springfield*, No. SJC-11612, Mass. Dec. 19, 2014). As a result, a number of local efforts to manage foreclosures, which often focused on mediation between mortgagor and mortgagee, bonds for

property maintenance, and fees for registering foreclosed properties, were overruled. Springfield, Lawrence, Worcester, and Lynn all had variations on these initiatives and were forced to revise their approaches. Worcester's revised ordinance targets the outcomes of foreclosure—unsecured and unmaintained vacant properties. The ordinance requires that owners of vacant and foreclosing properties provide contact information for ownership, submit floor plans of the structure, maintain the property free of overgrowth and trash, ensure that structures are structurally sound and secure, and maintain liability insurance. In addition, owners of vacant properties are required to pay a registration fee of \$3,000. This fee is placed in a reserve account and used, when necessary, for enforcement-related expenses and property maintenance. This can include snow removal, clean-up, yard work, inspections, and property stabilization and security. The money may be applied broadly to maintaining and securing any vacant or blighted property in the city. In the particular case of foreclosure, the City's Division of Housing and Health Inspections, an arm of the Inspectional Services Department, proactively sends an inspector to assess the property for Code violations, determine any maintenance and securitization needs, and confirm whether the property is vacant or occupied. Inspectional Services has one full-time inspector, whose salary is partially paid by the registration fee, and another employee who spends 20% of the position's time doing research and record-keeping on the properties. A list of all the properties that are vacant and/or are in foreclosure is maintained in a database that is shared across all City departments.

The WRRB View

Foreclosure is a disruptive and emotional situation. While inarguably and inordinately impacting the household, it also impacts neighborhoods, financial institutions, and local

governments, including school systems. Municipalities may not formally be involved in the foreclosure process, but they have a definite interest in the outcome.

Worcester's recent annual increases in petitions to foreclose has raised concerns in some circles that another foreclosure crisis could materialize. However, unemployment is down and housing values are up, meaning homeowners have stronger incomes and properties in jeopardy of foreclosure can be sold on the open market prior to auction. As a result, the number of foreclosures is well below the highs of the crisis. The spike in foreclosure rates appears to be due to mortgage lenders clearing their books and finishing the foreclosures that had been halted while waiting for resolution of court cases and clarifying state legislation. In some cases, as federal foreclosure mitigation programs end, some homeowners find themselves facing foreclosure once again as renegotiated mortgage payments remain out of reach without federal subsidy.

Yet foreclosure must remain a concern of municipalities. Foreclosures can lead to disinvestment, vacancy, and blight. Unoccupied properties become targets for illicit activities and run the risk of fire or collapse. In certain cases, ownership and responsibility are uncertain. Foreclosures can negatively impact surrounding property values. Municipalities have a twofold interest in foreclosures: impacts to households and impacts to real estate. Response to these concerns necessarily shift as households and properties progress through the foreclosure process. Table 1 illustrates key time periods and municipal priorities.

Over the years, the City of Worcester has been active in working to mitigate the impacts of foreclosure on both the homeowner and the real estate. From 2006 to 2011, the City supported the HomeOwnership Center of Central Massachusetts (HCCM, formerly the

Period	Household Considerations	Real Estate Considerations
Pre-Foreclosure	Foreclosure Counseling	Tax Delinquency & Code Enforcement (Basic Maintenance)
Foreclosure	Relocation	Code Enforcement (Vacant Property Security & Maintenance)
Post-Foreclosure	Reestablishment	Resale & Reinvestment

HomeOwnership Center of Worcester)—a program of Oak Hill Community Development Corporation sponsored by NeighborWorks® America. The HCCM provides pre-purchase training, post-purchase financial counseling, and foreclosure prevention counseling. As the foreclosure crisis declined, the City redirected its funds to housing production. Although its attempts to address the crisis through pre-foreclosure mediation and bond requirements for foreclosed properties were appropriately struck down by the courts, the City’s current Abandoned or Foreclosed Property Registration process appears to be an effective tool to track property ownership and conditions and a suitable use of municipal code enforcement authority. The program alerts the City to potential problem properties and provides the necessary regulatory and financial framework for ensuring that properties are secure and maintained.

The City is not the only entity with a concern for outcomes. In researching and developing this report, The Research Bureau spoke with individuals representing many sides of this challenging issue. While the mortgage finance industry can and should include opportunities for restructuring debt in cases of unpredictable household financial misfortune, the system cannot survive the regular forgiveness of debt and forbearance of foreclosure. Even the foreclosure process itself is a significant burden on the mortgage finance system, with unrealized principal and interest, property maintenance costs, legal and administrative costs, and real estate commissions, among others. The solution is a system that approaches each foreclosure individually, thoughtfully, and compassionately.

The Research Bureau recommends that municipalities work with financial institutions and non-profit housing organizations to establish a system that 1) identifies early-stage foreclosures, 2) connects homeowners with financial counseling and debt restructuring opportunities where possible, 3) minimizes the foreclosure process and timeline to reduce stress and cost to households and financial institutions alike, and 4) coordinates the relocation and resettlement of displaced households when necessary.

Table 2: Proposed Foreclosure Working Group Process

- (1) Financial institution notifies City of Petition to Foreclose. City assembles Foreclosure Working Group.
- (2) HCCM connects to homeowner through or with financial institution to offer foreclosure counseling—training on both financial literacy and the foreclosure process.
- (3) City inspects and adds property to locally maintained foreclosure watch list.
- (4) If foreclosure is imminent, financial institution offers one formal month of consultation and negotiation with homeowner and HCCM representative to identify financial (e.g., debt restructure) or procedural (e.g., short-sale) alternatives.
- (5) If homeowner abandons property and abrogates responsibility, Attorney General’s Office and City work with financial institutions to ensure legal access and maintenance through programs like receivership or eminent domain.
- (6) If foreclosure occurs, mortgagor is required to immediately vacate unit and financial institution offers “cash for keys,” providing 3 months’ rent based on U.S. Department of Housing and Urban Development Fair Market Rent for an appropriately sized unit in Worcester. RACM assists householder in finding alternative accommodations.
- (7) Financial institution fulfills fee and maintenance requirements of City’s foreclosure ordinance. City inspects and tracks property until resale.

A foreclosure working group, composed of such institutions and organizations as the City of Worcester, the Attorney General’s Office, the HCCM, the REALTOR® Association of Central Massachusetts (RACM), the Massachusetts Bankers Association (MBA), and the Cooperative Credit Union Association (CCUA) should lay out a framework for the foreclosure process in Worcester. The framework should include clear steps to minimize the possibility of foreclosure, but also mitigate the negative impacts of those foreclosures that must occur. In cases of abandonment, government must be prepared to use its authorities, including receivership or eminent domain, to expedite foreclosure and address public safety concerns. A potential structure and process is offered in Table 2.

This proposed process—with the right parties around the table and dedication to mission and timeline—has the potential to decrease the number of foreclosures while simultaneously speeding the foreclosure process and saving time, money, and stress for all parties involved. Done correctly, it should allow families facing foreclosure to work with financial institutions and other partners to limit the short- and long-term impact of foreclosure on their financial security. It should also allow financial institutions to avoid costly expenditures in the effort to recoup at least some portion of their investment in a failed mortgage situation.

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