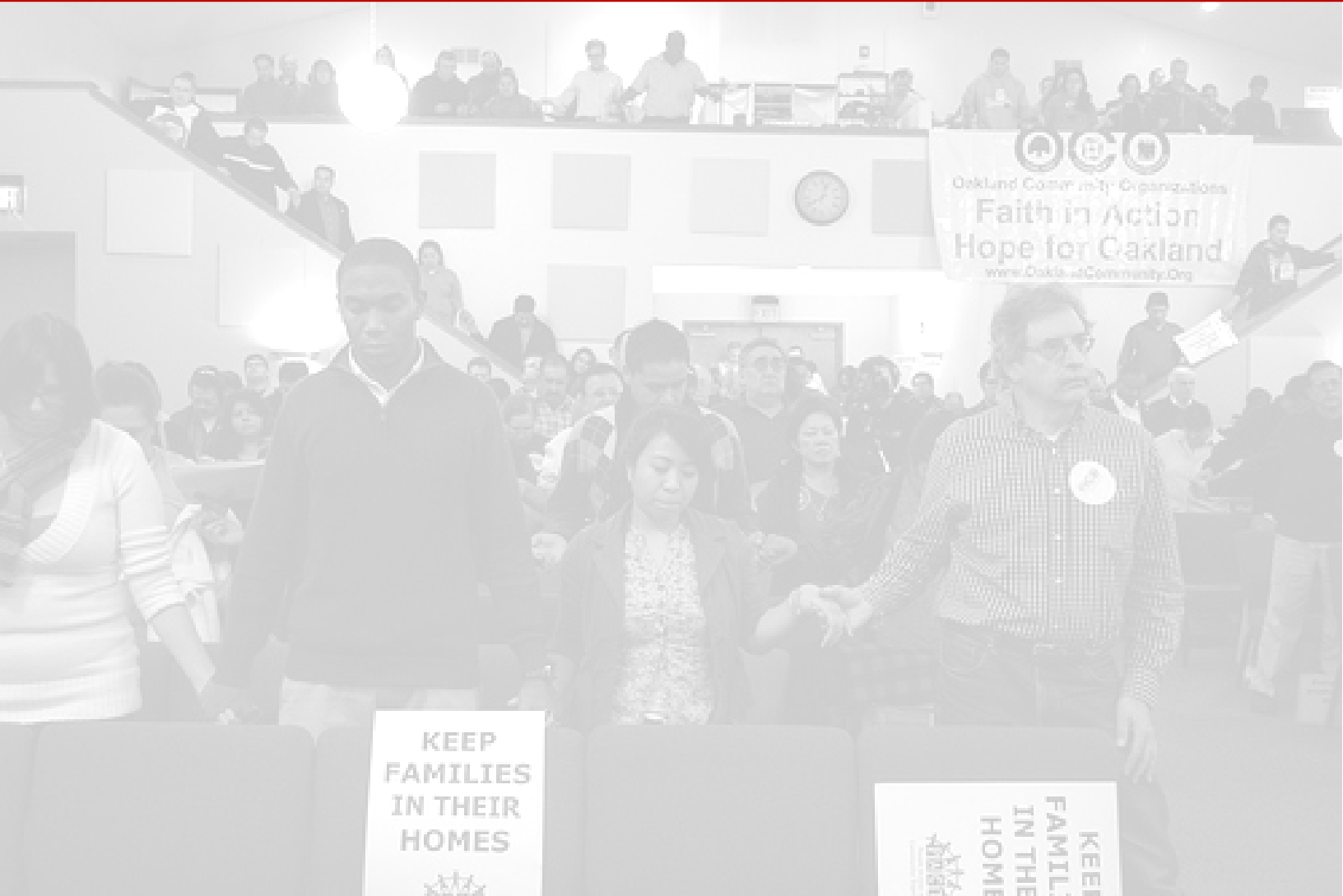


# Bank Accountability: The Key to Keeping Families in their Homes



**PICO** National Network | *Unlocking the Power of People®*



## CCISCO: CONTRA COSTA INTERFAITH SUPPORTING COMMUNITY ORGANIZATION

### PICO NATIONAL NETWORK (PEOPLE IMPROVING THEIR COMMUNITIES THROUGH ORGANIZING)

CCISCO is committed to building civic engagement and increasing public participation by those most affected by injustice and inequity in Contra Costa County. We are a multi-ethnic, multi-generational, interfaith federation of 22 congregations and youth organizations representing over 35,000 families across the county. CCISCO helps everyday people win extraordinary victories by providing a vehicle for them to speak, act and engage in public arenas. We believe in the power of relationships and that by acting together on our common values, we can imagine and create a new world.

With 51 local organizations that include more than 1,000 member institutions representing one million families in 150 cities and 17 states, the PICO National Network is one of the largest community-based organizing efforts in the United States. In California, there are 19 congregation-based community organizations representing 350 congregations and 450,000 families across the state.

Over the past year-and-a-half, PICO, together with allies at National People's Action, Center for Responsible Lending, SEIU and other grassroots and advocacy organizations, has engaged directly with lenders and servicers, Treasury and Administration officials, and the Federal Reserve around national strategies to keep families in their homes, stop preventable foreclosures, stabilize neighborhoods, and end predatory lending. Together, we helped win a major new federal initiative to encourage banks to modify the terms of loans to help people stay in their homes. We have promoted local and state policies

to stem the pace of foreclosures and deal with the consequences of bank-owned foreclosed properties. Along the way, we have also helped build support for regulatory reform legislation moving through Congress to prevent similar financial crises in the future. In the process, we've seen how important it is for communities that have been devastated by the credit crisis to have the ability to learn from one another and act collectively at the national level.

In January 2010, the PICO National Network launched a national corporate campaign to hold Bank of America accountable for its poor record of keeping families in their homes. This initiative is being led by PICO organizations in the Bay Area (Contra Costa Interfaith Supporting Community Organization; People Acting in Community Together-San Jose; and Oakland Community Organizations) and is an ambitious effort to organize billions of dollars of private and public deposits from large banks which are not acting in the public interest to financial institutions that are committed to ending predatory lending practices and participating in our "50/50" program, which is a \$50 billion community investment lending initiative to rebuild those communities most impacted by the foreclosure and economic crisis. For more information go to [www.ccisco.org](http://www.ccisco.org) and [www.piconetwork.org](http://www.piconetwork.org)

#### PICO'S WORK ON FORECLOSURE PREVENTION

- At a national level, PICO played a key role in helping to shape the development of the Obama Administration's Making Home Affordable Program.
- PICO representatives met with President Obama and key White House staff five times this year on this issue.
- PICO affiliates in California helped to pass the statewide foreclosure moratorium; and we have been working to help families stay in their homes and to rebuild the devastation of our communities.
- Generated over 250 media stories on this issue watched by an estimated 18 million households. Our work has been profiled on PBS; CNN; the Wall Street Journal; and Nickelodeon.
- PICO has developed strong partnerships with the CA State Attorney General; State Department of Corporations; Federal Reserve; and Department of Treasury.
- Organized nine field hearings with the Federal Reserve on the foreclosure crisis and secured a meeting with Federal Reserve Chairman Ben Bernanke in March 2010 to follow up our recommendations to the Federal Reserve.
- Received a commitment from the Department of Treasury to hold ten field hearings about how to strengthen bank accountability around community investment and loan modifications.

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## THE PROBLEM

The San Francisco Bay Area has been profoundly impacted by the foreclosure crisis which is poised to move into catastrophic dimensions. Recent reports demonstrate that 14% of all households in America (1 in 7 families) are either delinquent or in foreclosure. This crisis was largely precipitated by predatory lending practices which were enabled by the dismantling of financial regulations at a federal level and the absence of affordable housing and access to credit for low and moderate income communities, especially communities of color.

When the nation's largest banks needed crucial assistance last year, taxpayers extended billions of dollars to keep them afloat. Now, despite their return to record profits and big bonuses, banks continue to drag their feet in doing mortgage modifications or extending credit to small businesses while millions of Americans lose their homes and their jobs. Even worse, big banks are spending hundreds of millions of dollars to fight new regulations that would protect the very consumers who bailed them out. Despite massive public investment in our country's largest financial institutions, the overall foreclosure rate has continued to increase. The consequences continue to be devastating for our families, communities and the larger economy.

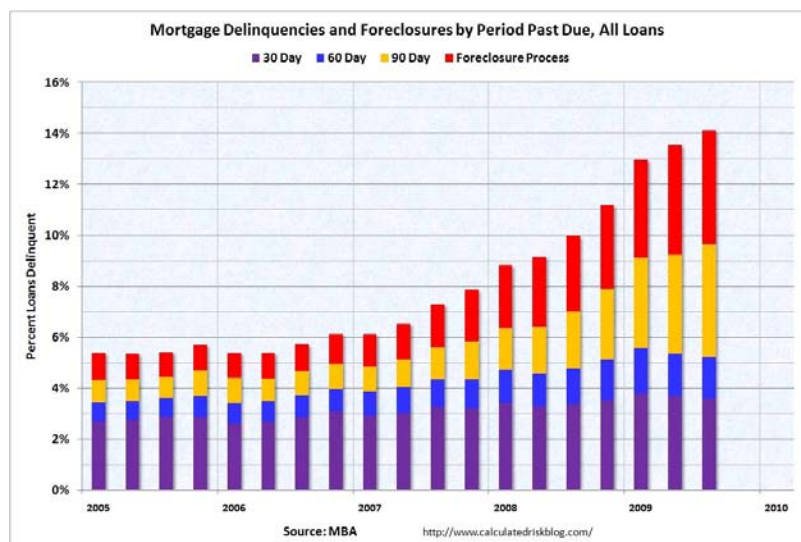
Every 7.5 seconds another family in America has lost their home.

Below are some startling numbers for our country:

- 1.5 million American families have already lost their homes to foreclosure.
- 13 million families are projected to lose their homes during the next 5 years if real action is not taken.
- 61% of sub-prime loans went to people who qualified for prime loans with much better terms.
- Those families paid more than \$5,200 in extra costs during the first four years—and that is before the interest rates increased.

In Contra Costa County:

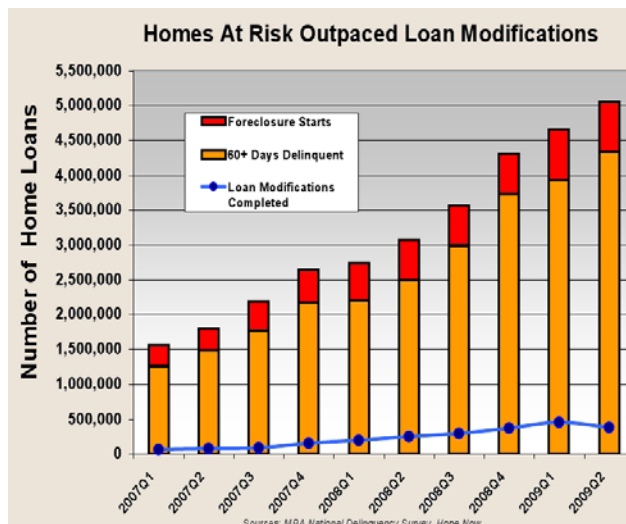
- As of July, there were 17,281 foreclosures in the Contra Costa and 4,131 foreclosures filed in the month of July alone.
- 8 out of 10 foreclosures in Contra Costa are due to sub-prime loans.



Over the past several months, PICO has learned more about five trends that have important consequences for our efforts to successfully keep families in their homes.

### 1. The HAMP program has been much slower than expected in bringing relief to homeowners facing foreclosure

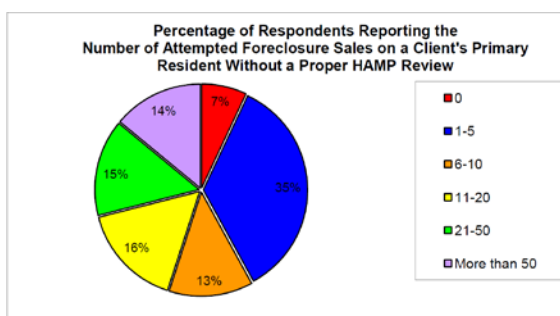
The HAMP program is voluntary. It creates incentives designed to encourage banks to modify mortgages, but these incentives have still not resulted in large-scale permanent and sustainable loan modifications. Although 728,000 borrowers have been offered temporary loan modifications to-date, banks have been slow to offer permanent modifications.



People trying to get help from their banks through the HAMP program report endless delays and lost documents. Worse, many lenders are proceeding with the foreclosure process at the same time that people are applying for help to save their homes.

A recent survey by the National Consumer Law Center found that 95% of consumer advocates responding from 24 states reported cases where banks and servicers attempted to proceed with a foreclosure and auction without a completed HAMP review.

Alan White, a law professor who tracks the foreclosure issue, said on November 10: *“We the taxpayers have contracted to pay the servicers billions of dollars to prevent foreclosures and modify loans, and so far they are not doing the job... There are also early indications that two-thirds to three-quarters of homeowners on temporary modifications have made all their payments, but fewer than one in a hundred has a permanent modification after three months. In some cases, legal aid lawyers are going to court to stop foreclosure sales for homeowners who are making payments on a temporary modification plan. Treasury needs to demand performance from Bank of America, Chase, Citi, Wells Fargo, and the other mortgage servicers who are slated to receive billions in HAMP subsidies (not to mention all the other TARP subsidies)... If this emperor has no clothes, then let's get the tailor working on a new outfit.”*



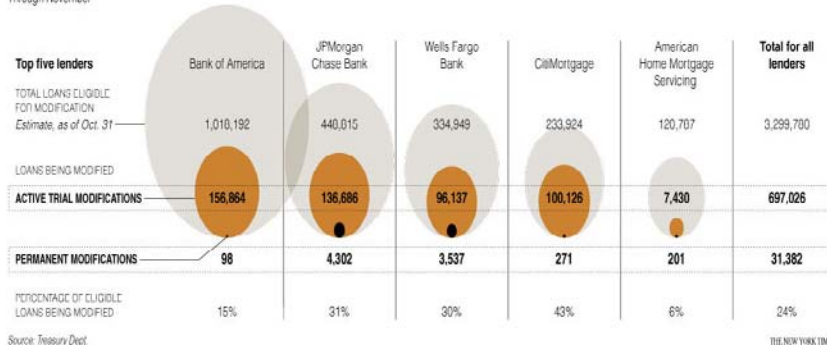
Moreover few homeowners are seeing reductions in the principal, which is so important to keeping people in homes that have lost value.

## 2. Bank of America stands out having the worst record on foreclosure

### Slow Progress on Loan Modifications

The Obama administration's Making Home Affordable program was intended to help troubled homeowners work with banks to modify the terms of their mortgages. But so far, less than one-quarter of eligible mortgages are being modified, even on a trial basis. Far fewer than that — less than 1 percent — have been permanently modified.

Loan modifications under the Making Home Affordable program  
Through November



One out of every three homeowners still waiting for a trial modification under the HAMP program has a loan serviced by Bank of America. Bank America is both the largest servicer of mortgages eligible for HAMP and has the worst performance of the largest banks in the nation.

The three other major national banks have provided trial modifications at twice the rate of Bank of America. For example, as of November 30, Citibank had provided temporary modifications to 43 percent of eligible families; Bank of America had provided modifications to just 15 percent. Even worse, as of December 30, 2009 Bank of America has offered permanent loan modifications to just 3,100 of the more than one million borrowers who qualify for HAMP. While few servicers have aggressively provided permanent and sustainable loan modifications, there are some signs that more banks are stepping up the pace of modifications and are also reducing principal. This shows that progress is possible, if there is the will.

## 3. Banks are initiating a new wave of foreclosures against unemployed homeowners who are currently not eligible for help under HAMP

While the subprime lending crisis and the foreclosures that followed may have helped cause this recession, the current wave of foreclosures is being driven by unemployment. Today, only one out of three delinquent mortgages is sub-prime. The other two-thirds are families with standard prime loans, facing foreclosure largely due to having lost their jobs. The official unemployment rate is 10 percent, with the real rate near 17 percent (including people who have given up looking for work). Unlike more recent recessions, unemployment is expected to remain high for a long time. The highest unemployment is concentrated in areas facing the highest rates of foreclosure, and economists are predicting that the worst is far from over and that foreclosures will peak in 2011. Generally unemployed homeowners are not eligible for help through the HAMP program, which requires homeowners to have adequate monthly income, and is designed to promote permanent modification of loans.

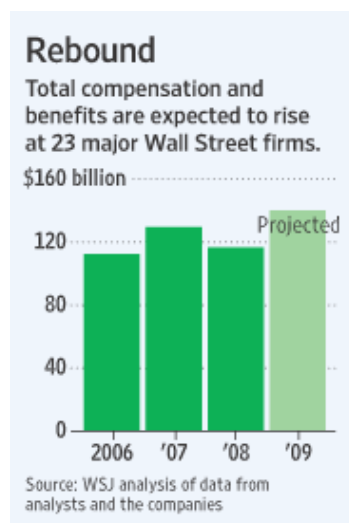
#### 4. Banks have a great deal of power over Congress

In March we saw the financial industry kill bankruptcy reform legislation that would have given homeowners an opportunity to go before a judge if their lender was unwilling to modify their mortgage. Taking away this “stick” has severely undermined efforts to prevent unnecessary foreclosures. More recently, we have seen banks work to water down efforts to better regulate financial products. Passage of the Consumer Financial Protection Agency and other consumer protections would help prevent similar crises, but the financial industry is pouring money into Congress to oppose tighter regulation.

#### 5. Our communities are going to be dealing with the aftermath of the foreclosure crisis for years to come

Neighborhoods are being devastated by foreclosures, leaving hundreds of vacant, attractive nuisance properties. Many banks are not managing vacant foreclosed homes in a responsible way. Banks are selling properties to cash investors and speculators, increasing rental rates and reducing homeownership in these neighborhoods.

Despite massive intervention by the federal government, banks continue to foreclose on families without negotiating with them in good faith.



We have all seen how banks and their powerful lobbies have been reaching deep into their pockets to stifle attempts at reform. It has been more than a year since the large banks imploded our economy which has taken a devastating toll on our country. The banks themselves would have folded—devoured by their own greed—were it not for the taxpayer bailout. Bank of America received over \$199 billion in public investment.

Now major banks and securities firms are on track to pay their highest-level employees up to \$140 billion in compensation this year. That's more than the combined budgets of the Departments of Commerce, Education, Energy, Housing and Urban Development, the National Science Foundation and the

Environmental Protection Agency.

Here are some facts about what Bank of America's could do with their estimated \$32.2 billion executive bonus and compensation pool:

- Bank of America could prevent or postpone 92% of all foreclosures projected to take place in the entire country in 2009-2012 by providing mortgage payment assistance to struggling families. That's 8.3 million families.

- Bank of America could have provided mortgage payment assistance to all 2.3 million families that lost their homes in 2008, helping them prevent or postpone foreclosure.
- Bank of America could buy back 181,200 homes that were foreclosed in 2008 outright and let the homeowners live there for free.

### ***Our Financial Institutions***

Our entire financial system is broken. Banks and other financial institutions have worked overtime to repeal laws and regulations that were in place to protect the American people and the American economy.

Now they are spending millions in Washington to defeat common-sense proposals that would make our economy stronger and more secure. The current financial system has drained the American people of hard-earned money and sent our economy to the brink of collapse.

Our democracy is broken. Wall Street has hijacked our democracy, spending millions and millions each year on lobbying to advance their private interests at the cost of the public's interest. We need our elected officials from both parties to say "No" to money being handed out by Wall Street.

### ***Short Term Solutions Are Not Working***

A substantial problem is that too many loan modifications are just temporary and according to analysts there is no evidence of significant numbers of temporary modifications becoming permanent. This is troubling, because many agreements were put in place in May and June, and should have been converted to permanent modifications by August or September.

Yet another problem according to legal experts is the opportunities for additional money by foreclosing on families. "The rules by which servicers are reimbursed for expenses may provide a perverse incentive to foreclose rather than modify," concluded a recent paper published by the Federal Reserve Bank of Boston.

"If they do a loan modification, they get a few shekels from the government," said David Dickey, who led a mortgage sales team at Bank of America, in a recent New York Times report. "There's all sorts of things behind the scenes."

## PROPOSED SOLUTIONS

### ***Local Government:***

- We are encouraging local municipalities to initiate a study of divestment from banks that do not negotiate in good faith with the community around foreclosure prevention; property disposition; and community investment.

### ***Contra Costa County:***

- We are asking the County to introduce a resolution within the next 30 days to initiate a study of divestment from banks that do not negotiate in good faith with the community around foreclosure prevention; property disposition; and community investment.

### ***State of California:***

- The State Attorney General needs to investigate banks that are uncooperative and pursue litigation against those which did not comply in good faith with the California Foreclosure Moratorium.
- The California Legislature to adopt the proposed Mandatory Mediation legislation and to collaborate with our County delegation to convene hearings in Contra Costa County.

### ***Federal Reserve:***

We are calling on the San Francisco Federal Reserve to do the following:

- Help to convene the lenders we have identified to negotiate around our requests around foreclosure prevention and community investment.

We are calling on the Federal Reserve Board of Governors to:

- Use their regulatory powers to initiate new rule making with the other federal banking regulators to strengthen the Community Reinvestment Act.

### ***Department of Treasury:***

The Department of Treasury has agreed to participate in a series of ten field hearings on the HAMP program and needed improvements. We will be releasing a schedule of events in the coming weeks. To increase the number of loan modifications under the HAMP program and to promote more sustainable modifications, the Treasury should:

1. Revise servicer participation agreements to clarify that servicers are not allowed to move ahead with any part of the foreclosure process once a homeowner has applied for a loan modification.

2. Work with HUD and Congress to implement an effective program that reduces the amount of debt that homeowners are carrying as part of loan modification.
3. Work with HUD to establish a clear appeals process for people who are denied loan modifications.
4. Make the Net Present Value model used in determining who is eligible for a loan modification available to the public and explain to people who are denied modifications how much income they would need to remain in their homes.

We are also calling on the Treasury to impose financial penalties on banks that fail to comply with HAMP guidelines and continue to foreclose on families who are eligible for modifications.

Specifically, we request: (a) that Treasury immediately impose a \$80 million financial penalty (representing 10 percent of the value of the agreement), as provided in the Servicer Participation Agreement, on banks that are out of compliance; (b) that an additional \$80 million penalty be applied to banks each month that it fails to bring itself into compliance with the HAMP guidelines; and (c) that the Treasury set specific performance guidelines that require banks to extend permanent loan modifications to all eligible homeowners within the next three months or be determined to be in default of the Servicer Participation Agreement.

***United States Congress:***

We are calling on the U.S. Senate to pass judicial loan modifications and to pass strong consumer protection legislation (Consumer Financial Protection Agency), and extend the Community Reinvestment Act to lenders who were most responsible for foreclosures, in order to prevent this crisis from happening again.

We are proposing that Congress establish a new federal initiative to help unemployed homeowners stay in their homes, based on the successful Homeowners Emergency Mortgage Assistance Program (HEMAP) in Pennsylvania.

***Banks:***

We are directly calling on all major national banks to do the following:

**FORECLOSURE PREVENTION: "First, do no harm"**

1. Suspend all auctions and foreclosure proceedings across the country for at least the next 90 days to allow for negotiations to occur and agree to a concrete timeline with bi-monthly benchmarks and reporting.
2. Incorporate principal reductions, which are allowable under HAMP, and not just interest rate reductions, to make loan modifications more affordable and sustainable.
3. Establish a 45-day maximum time period to respond to loan modification request and provide net present value calculations used in loan modification offer.

4. Designate a point person to negotiate with our family delegations.
5. Provide transparent reports on the terms and demographics of loan modifications granted.
6. Create an appeals process that includes reason for denial.

**COMMUNITY DEVELOPMENT: "Rebuilding Neighborhoods"**

1. Negotiate with our local government entities and non-profit developers to bundle abandoned Real-Estate Owned properties and convert them into affordable housing.
2. Commit that none of your Real-Estate Owned properties in these targeted communities will be sold without providing a first right of refusal to local public entities and community development corporations.
3. Real Estate Owned properties will be offered at 75% of fair market value with the condition that they will be offered as affordable housing.

**COMMUNITY INVESTMENT: "50/50 Program"**

Establish a community investment agreement to improve access to capital for 50 targeted communities that have been devastated by the foreclosure crisis. The "50/50" national investment agreement should include the following:

- \$50 billion in total lending in targeted communities over the next five years targeting 50 hard-hit communities across the country;
- \$15 billion in Equity Equivalent investments in community development financial institutions that can lend to families who are credit-impaired;
- The lending pool will be offered at 2% below market rate; and
- A fund equal to 3% of the total lending pool to provide grants to build the capacity of community-based organizations to implement the lending agreement.

In order to monitor the agreement, banks should provide their servicing portfolio over last year three years in the targeted communities including: baseline lending; investment; charitable contributions; defaults; option-arms; modifications; denials; and real-estate owned properties.

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