



HOUSING and
FAIR CREDIT

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MORTGAGE LENDING AND FORECLOSURES IN IMMIGRANT COMMUNITIES: EXPANDING FAIR HOUSING AND FAIR LENDING OPPORTUNITY AMONG LOW INCOME AND UNDOCUMENTED IMMIGRANTS

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Mortgage Lending and Foreclosures in Immigrant Communities:

**Expanding Fair Housing and Fair Lending Opportunity
Among Low Income and Undocumented Immigrants**

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Neighborhood Economic Development Advocacy Project

INTRODUCTION

Immigrants face major barriers to fair housing and fair lending opportunity. Obstacles include discrimination by landlords, real estate professionals and other housing providers based on immigrants' race, country of origin, and real or perceived immigration status. Language barriers impede many immigrants' access to information about housing opportunities and their rights under fair housing and other anti-discrimination laws. Immigrants who are new to the country or have avoided debt typically lack formal credit histories, which are increasingly reviewed by landlords when considering prospective tenants, and are vital to securing mortgages on fair terms.

Housing affordability is a pervasive issue affecting immigrants, who are more likely than people born in the U.S. to live in cities and to spend a larger percentage of their incomes on housing. In New York City, where immigrants make up 37% of the population and 46% of the workforce, low income renters living in unsubsidized apartments typically spend more than half of their incomes on rent.¹ Immigrant families are more likely to live in overcrowded housing conditions, as well as in illegally converted housing units.² In recent years, affordable housing in New York and other high-cost cities has been threatened by "predatory equity" schemes, in which private equity companies have purchased rent-regulated apartment buildings and attempted to force out low income, often immigrant tenants paying below-market rents.³

Local governments have taken actions that undermine the federal Fair Housing Act and other anti-discrimination statutes.⁴ In recent years, dozens of municipal governments throughout the country have passed ordinances prohibiting landlords from renting apartments to undocumented immigrants.⁵ While many of these ordinances have been struck down or are being challenged in

¹ Pratt Center for Community Development and New York Immigrant Housing Collaborative, *Confronting the Housing Squeeze. Challenges Facing Immigrant Tenants, and What New York Can Do* (October 2008).

² Illegal conversions typically involve the modification of an existing one- or two-family home by adding an apartment in the basement or attic. In many cases, immigrant homeowners struggling to make mortgage payments undertake illegal conversions to generate needed rental income. See Chhaya CDC, *Finding a Path to South Asian Community Development. A Report on the Housing Needs of South Asian Americans in New York City* (2001).

³ See Association for Neighborhood and Housing Development, *The Next Sub-Prime Loan Crisis: How Predatory Equity Investment is Undermining New York's Affordable Multi-Family Rental Housing* (2008).

⁴ The Fair Housing Act, Title VIII of the Civil Rights Act of 1968, prohibits discrimination in the sale, rental, and financing of homes on the basis of race, color, national origin, religion, sex, familial status and disability. Citizenship and legal immigration status are not explicitly covered under the Act; however, attempts to discriminate on these bases may violate FHA insofar as they result in unfair treatment of individuals of a particular race, national origin or other protected class.

⁵ National Commission of Fair Housing and Equal Opportunity, *The Future of Fair Housing: Report of the National Commission on Fair Housing and Equal Opportunity* (2008) ("Anti-immigrant ordinances are a particularly egregious example of the use of land use regulation to erect barriers to fair housing....Without the authority or expertise to determine a potential tenant's immigration status, a landlord may refrain from renting or leasing to anyone he suspects could be an undocumented immigrant, a behavior likely to read to racial and ethnic profiling and discrimination against people of color, and most commonly, Latinos.")

court, their passage and the anti-immigrant sentiment they help fuel have had negative consequences on local housing conditions – not only for undocumented immigrants, but for legal residents and U.S. citizens, particularly Latinos. Many families and workers have reportedly moved out of these communities as a result of the hostile climate, contributing to a decline in local economies and housing markets.⁶

Abusive mortgage lending and real estate practices pervade many immigrant communities. Steering of immigrants to particular neighborhoods, or to abusive and unaffordable mortgage loans, impedes fair housing choice and immigrant families' prospects for long-term, sustainable homeownership. Housing advocates cite abusive practices by "one-stop shops" – where real estate agents, appraisers, mortgage brokers, and attorneys collude to deceive homebuyers – as particularly rampant in immigrant communities, where language and cultural barriers result in greater reliance on brokers to navigate the complicated homebuying process.

In particularly egregious cases of abuse, some real estate professionals have targeted new immigrants for scams involving mortgage fraud. Fair housing advocates in numerous states have identified, for example, patterns in which undocumented immigrants were led through the homebuying process by seemingly sympathetic brokers, only to be told before closing that they needed to find a friend or family member with a Social Security Number to sign for the mortgage loan. These schemes have cost numerous families their life savings, while exposing all parties involved to serious legal risks.

At the same time that undocumented immigrants were frequent targets for abuse, they also had greater access to legitimate home purchase opportunities in the years leading up to the mortgage crisis. Over the past decade, a small but growing number of lenders began making mortgage loans to individuals who did not have Social Security Numbers or traditional credit histories, by accepting those individuals' IRS-issued Individual Taxpayer Identification Numbers (ITINs) and developing underwriting criteria that considered alternative payment and credit histories. ITIN mortgages have provided a legal path to homeownership for many undocumented immigrants, among other populations not eligible to receive Social Security Numbers. Despite higher interest rates typically associated with these loans, and the political controversy that has frequently surrounded them, ITIN loans have consistently outperformed even prime mortgage loans. Nonetheless, the availability of ITIN loans has diminished drastically in recent years, as a result of the mortgage crisis and lack of a secondary market for these loans, among other factors, curtailing opportunities for homeownership among new and undocumented immigrants.

Immigrants make up a growing share of the population in many parts of the country - including areas in the South and Midwest where their presence was virtually nonexistent a decade ago. Demographers and housing policy analysts have pointed to the critical role that immigrants will play in the recovery of the current housing crisis and in ensuring future housing demand.⁷ Strengthening

⁶ Jill Esbenshade, Immigration Policy Center, American Immigration Law Foundation, *Division and Dislocation: Regulating Immigration through Local Housing Ordinances* (2007). See also "Towns Rethink Laws Against Illegal Immigrants," available at <http://www.nytimes.com/2007/09/26/nyregion/26riverside.html>.

⁷ See, e.g., Joint Center for Housing Studies, Harvard University, *The State of the Nation's Housing* (2009), available at <http://www.jchs.harvard.edu/son/index.htm>.

and enforcing fair housing and fair lending protections – including those provided for by the federal Fair Housing Act – is increasingly vital, not only to protect the rights of the nation’s growing immigrant population, but to stabilize and preserve housing markets and local economies.

The following sections address in greater detail mortgage lending and foreclosure issues affecting low income and undocumented immigrants, with a focus on New York City as a case example. The research presented here is based on publicly-available mortgage lending data, foreclosure data purchased from a private vendor, case studies of immigrant homeowners facing foreclosure, and interviews with fair housing and immigrant advocates and mortgage professionals. The paper includes GIS maps showing the spatial distribution of high-cost mortgage loans and foreclosures in New York City. The final section presents recommendations to eliminate barriers to fair housing and fair lending for immigrants, moving forward.

HOMEOWNERSHIP IN IMMIGRANT COMMUNITIES

Immigrants face various impediments to homeownership, which has been the primary vehicle for wealth and asset development in the U.S. Although the homeownership rate among immigrants has increased over the past two decades, it continues to lag behind that of native-born people.⁸ In 2008, 53% of immigrant-headed households owned their homes, compared to 70% of households headed by native-born people. There is significant variation in homeownership rates among immigrants based on countries of origin, length of time in the U.S., and areas of settlement in the U.S., among other factors. Roughly 45% of foreign-born blacks and Latinos owned homes, compared to 58% of foreign-born Asians and 66% of foreign-born whites. Naturalized citizens are nearly twice as likely to own homes (67%) as non-citizens (35%); and after 20 years, immigrants are almost as likely as their native-born peers to own their homes.⁹

Immigrants face a host of obstacles to homeownership, including lack of housing affordability in cities, where 96% of immigrants live (compared to 78% of those born in the U.S.).¹⁰ Limited English proficiency, and discrimination by home sellers and real estate professionals based on race, ethnicity or immigration status, further compromise immigrants’ ability to navigate the homebuying process safely. Lower income immigrants and refugees, among other economic migrants, are unlikely to benefit from intergenerational transfers of wealth that could be applied toward home purchase; and they may, in fact, be supporting family members in their home countries. Among some immigrant groups, homeownership may be valued less than higher education or business ownership, and family resources may accordingly be spent toward those pursuits.¹¹

⁸ Joint Center for Housing Studies at Harvard University, *New Americans, New Homeowners: The Role and Relevance of Foreign-Born First-Time Homebuyers in the U.S. Housing Market* (Aug. 2002).

⁹ Pew Hispanic Center, *Through Boom and Bust: Minorities, Immigrants and Homeownership* (May 2009).

¹⁰ Pew, *Through Boom and Bust*.

¹¹ Migration Policy Institute, *Immigrants and Homeownership in Urban America: An Examination of Nativity, Socio-Economic Status and Place* (2004).

Access to mortgage loans is limited for some immigrant groups, even where homeownership may be an affordable option. New and undocumented immigrants, for example, typically have little or no credit histories, which impedes their ability to access credit on fair terms.¹² Immigrants are also more likely than people born in the U.S. to be self-employed, and to have informal or pooled sources of income. As a result, immigrant homebuyers have been prime candidates for “stated income” and other abusive and nontraditional loans.

Immigrants are less likely than those born in the U.S. to have bank accounts – a critical entry point to the formal financial services system. An estimated 32% of foreign-born households in the U.S. do not have a basic bank account, compared to 18% of those born in the U.S.¹³ Barriers to account ownership include restrictive identification requirements imposed by many banks, as well as low and unstable (e.g., seasonal) incomes among some immigrant workers, making it difficult to maintain a required minimum balance. Many undocumented immigrants are deterred from opening accounts by concerns about how they would access funds if they were detained or deported. Account ownership is lowest among immigrants from Latin America; as few as one in four immigrants from Mexico have accounts. Without financial records or credit histories, it can be extremely difficult for individuals to demonstrate their income and creditworthiness, or to build relationships with financial institutions from which they might obtain future loans, including mortgages.

Subprime and Predatory Lending in Immigrant Communities

Extensive research has documented racial and ethnic disparities in mortgage lending, with blacks and Latinos paying more than whites for mortgage loans, even when controlling for income and credit scores. In 2006, black New Yorkers were four times and Latinos three times as likely as white borrowers to receive a subprime loan to purchase their homes.¹⁴ Subprime loans carry significantly higher fees and interest rates, and are associated with higher rates of foreclosure, compared to prime mortgages. Among borrowers who received subprime loans in 2006, 61% had credit scores that should have qualified them for prime loans, according to a study completed for the Wall Street Journal. African Americans and Latinos were also more likely to receive interest-only and Option Adjustable Rate Mortgages (ARMs) than white borrowers at all levels of income, debt loads and credit scores.¹⁵

Communities of color have received a disproportionate share of subprime loans since the proliferation of this market in the mid- and late-1990s, as documented through research using publicly available Home Mortgage Disclosure Act (HMDA) data. HMDA does not, however,

¹² 22% of Latinos, for example, have thin credit files or no credit history at all, compared to 4% of whites. Michael Stegman et al., “Automated Underwriting: Getting to ‘Yes’ for More Low-Income Applicants” (2001 presentation to the Research Institute for Housing America Conference).

¹³ 2000 Survey of Income Program Participation.

¹⁴ Subprime (or “high-cost”) loans are defined in the Home Mortgage Disclosure Act as first-lien loans with annual interest rates of 3% or more, or second-lien loans with annual interest rates of 5% or more, above Treasury securities of comparable maturity.

¹⁵ Consumer Federation of America, *Exotic or Toxic? An Examination of the Non-Traditional Mortgage Market for Consumers and Lenders* (May 2006).

provide information about loan applicants' countries of origin, making it difficult to estimate the impact of subprime loans made to native- vs. foreign-born homebuyers. GIS mapping of mortgage lending patterns by census tract reveals that high-cost mortgage loans are overwhelmingly concentrated in communities of color in New York City, including numerous neighborhoods where large shares of immigrants live. (See attached map.)

Individual Taxpayer Identification Number (ITIN) Mortgages

Beginning in the early 2000s, a growing number of banks and credit unions began accepting IRS-issued Individual Taxpayer Identification Numbers (ITINs) to open bank accounts and, to a lesser degree, make mortgages and other loans.¹⁶ The emergence of a so-called "ITIN mortgage" market created a path to homeownership for many immigrants who lacked the documentation needed for traditional mortgages but could otherwise qualify for and sustain loans. By 2005, at least 20 banks and credit unions offered ITIN loans, with Chicago and other Midwestern banks at the forefront of this new market.¹⁷

The ITIN mortgage market has largely dried up as a result of the financial collapse. However, as of 2008, immigrants had borrowed between \$1 and \$2 billion in ITIN mortgages, according to estimates by the National Association of Hispanic Real Estate Professionals (NAHREP) and Hispanic National Mortgage Association (HNMA).¹⁸ Before the economic downturn, NAHREP had estimated that more than 216,000 undocumented Latino immigrants could purchase homes and sustain upwards of \$44 billion in mortgages.¹⁹

ITIN mortgages have consistently outperformed all other mortgages – including prime loans. According to HNMA, less than 1% of ITIN loans were in foreclosure as of mid-2008, compared with 1.2 percent for prime mortgages and nearly 11 percent for subprime mortgages.²⁰ Because homebuyers with ITINs typically lack credit scores and other information required by automatic underwriting programs, these mortgages have generally been more carefully underwritten than traditional mortgages. Criteria for ITIN mortgages have also been more flexible than for other loans,

¹⁶ ITINs are unique, nine-digit numbers issued by the IRS to individuals who do not qualify for Social Security Numbers, but who are required to file tax returns or report other information to the IRS. The IRS has issued more than 13 million ITINs since 1996. ITINs may be accepted, in conjunction with other identifying information, by financial institutions to open accounts and make loans.

¹⁷ Mari Gallagher, *Alternative IDs, ITIN Mortgages, and Emerging Latino Markets*. See also Miriam Jordan, "Home Loans to Illegal Immigrants Sturdy But Show Some Cracks," *The Wall Street Journal Online* (October 15, 2007). ("Illinois, Georgia, Indiana, Wisconsin and Texas are the top producers of ITIN mortgages, accounting for about 70% of the volume insured by MGIC.")

¹⁸ Nancy Mullane, "Politics Undercut Mortgages for Illegal Workers," NPR, available at <http://www.npr.org/templates/story/story.php?storyId=96557544>.

¹⁹ Rob Paral and Associates, *The Potential for New Latino Homeownership Among Undocumented Latino Immigrants*, prepared for the National Association of Hispanic Real Estate Professionals.

²⁰ Miriam Jordan, "Mortgage Prospects Dim for Illegal Immigrants," available at <http://online.wsj.com/article/SB122463690372357037.html>

in terms of acceptable income and down payment sources, and the types of alternative credit and bill payment histories considered.

In spite of their strong performance, ITIN mortgages were never purchased by government-sponsored enterprises (GSEs) Fannie Mae and Freddie Mac.²¹ HNMA and other entities attempted to establish alternative secondary market sources for these loans, but these efforts were relatively small in scale and faced formidable challenges.²² Lack of a large-scale secondary market has been a major barrier to the growth of this industry, as lenders making ITIN mortgages must otherwise maintain these loans in portfolio.

The ITIN mortgage market has been fraught with political issues and contradictions from its inception. There are no laws that prohibit financial institutions from serving undocumented immigrants, or that deny undocumented immigrants the right to purchase homes or obtain mortgages. However, widespread opposition to helping undocumented immigrants – including within some financial institutions – has undermined efforts to bring this population into the financial mainstream. Many banks have cited fears of anti-immigrant customer backlash or negative press as foremost among their reasons for not serving undocumented immigrants.²³ To avoid unwanted attention, some financial institutions have offered ITIN mortgages but not publicized them, relying instead on word-of-mouth within immigrant communities to attract borrowers. Still other banks have limited these offerings to certain markets, or even branches, within their service areas.

Concerns and misconceptions about immigration law enforcement have also chilled efforts to bring immigrants into the formal banking system. At forums convened by banking regulators over the past decade, banks and credit unions routinely raised concerns about whether opening accounts or making mortgage loans to undocumented individuals would expose their institutions to criminal charges. In the wake of stepped up immigration raids in many communities, some banks feared becoming targets of law enforcement agencies, or expressed concerns about what recourse they had to collect on loans if a borrower were detained or deported.

²¹ Fannie Mae does not require that borrowers have a SSN, but it requires that they be lawfully present in the U.S. *See* <http://www.efanniemae.com/sf/formsdocs/forms/1003.jsp>. Freddie Mac cited “political issues” that would need to be resolved before the agency looked into ITIN loans. *See* <http://www.americancity.org/magazine/article/web-exclusive-undocumented-dream-gallagher>

²² Illinois and Wisconsin instituted programs to purchase ITIN and other nonconforming mortgages, but both stopped their programs after a few years – in the case of Wisconsin, after a state law was passed prohibiting ITIN mortgages. The National Federation of Community Development Credit Unions purchases nonconforming loans – including ITIN mortgages – from member credit unions, offering a small secondary market for these institutions.

²³ New South Federal Savings Bank in Birmingham, AL, for example, received hostile calls and emails, and was even threatened with a lawsuit for racketeering. *See* http://www.businessweek.com/magazine/content/05_29/b3943001_mz001.htm. These concerns have been fueled by prominent examples of media and customer backlash, e.g., against Bank of America after the Wall Street Journal reported that the bank was issuing credit cards to people who did not have Social Security Numbers. *See*: <http://www.bankofamericaboycott.com>.

On several occasions, members of Congress have introduced legislation to prohibit financial institutions from making mortgages or issuing credit cards to undocumented immigrants.²⁴ While these proposals have been unsuccessful, they have contributed to the sense among some banks that doing business with people with insecure immigration status would expose their institutions to excessive risk.²⁵

Advocates have expressed concerns about the frequently high interest rates and costs associated with ITIN mortgages – particularly those offered by non-bank mortgage lenders. While some added cost to borrowers could be justified by the more intensive underwriting required for ITIN loans, or lenders’ need to maintain these loans in portfolio, a number of brokers and lenders have exploited the limited options available to aspiring homebuyers with ITINs. Advocates have also raised concerns about the privacy of immigrant borrowers’ information, in cases where loans have been sold or where financial institutions may have filed Suspicious Activity Reports about loan applicants (described below).

Like other mortgages, ITIN loans dried up with the collapse of the financial markets in 2008. Banco Popular suspended its ITIN mortgage lending outside of Texas in August 2008, citing “turbulent times” in the mortgage industry. Wells Fargo, which had begun a pilot lending program in Los Angeles and Orange Counties in 2005, never expanded it to other states. Secondary market players also exited the ITIN market. HNMA Funding Co., which had purchased approximately \$200 million of these mortgages before ending the program in June 2008, told a reporter that “If the market closed for plain-vanilla loans, it is now more than closed for loans that fall outside the traditional mortgage pattern.”²⁶ MGIC Investment Corp., which began offering mortgage insurance on ITIN loans in 2004, also exited the market in 2008, citing lack of sufficient demand.²⁷

Not all lenders, however, have stopped making ITIN mortgages. Notably successful ITIN lending continues to be done by several small banks and community development credit unions. Latino Community Credit Union, for example, with eight branches throughout North Carolina, has made more than 400 mortgages to date, more than 90% of which went to families where one or more borrowers had an ITIN. Notwithstanding the economic decline, the credit union has foreclosed on only four borrowers to date.²⁸

Bank Secrecy Act and Suspicious Activity Reports

Regulatory issues – particularly around anti-money laundering and anti-terrorism funding rules –

²⁴ In 2007, for example, Rep. John Doolittle, R-Calif, introduced H.R. 480 to Amend the Truth in Lending Act to prohibit issuance of residential mortgages to any individual who lacks a Social Security Number.

²⁵ Various state bills have similarly sought to prohibit banks from accepting Mexico’s matrícula consular card as a valid form of identification to open accounts. Other states have attacked immigrants directly, by taxing their remittances sent to family members back home and arguably discouraging immigrants from using formal financial services channels.

²⁶ Miriam Jordan, “Mortgage Prospects Dim for Illegal Immigrants.”

²⁷ Phone interview with Katie Monfre, MGIC (October 2009).

²⁸ Interview with Luis Pastor, CEO of Latino Community Credit Union (January 2010).

have had the consequence of obstructing access to financial services and credit in immigrant communities. The USA PATRIOT Act, which amended the Bank Secrecy Act, set forth minimum identification requirements for new bank customers.²⁹ While the minimum requirements are flexible and permit banks, for example, to accept ITINs and consular identification, they nonetheless caused widespread confusion among banks. While some banks have adopted flexible identification requirements in compliance with the Patriot Act, others have developed restrictive policies that go beyond what the law requires and that arguably have discriminatory impact on immigrants. Banks that require potential customers to present a Social Security Number, for example, frequently cite regulators' stepped-up enforcement of Bank Secrecy Act and related rules as justification.³⁰

USA PATRIOT Act, Section 326

Section 326 of the PATRIOT Act requires financial institutions to collect at least the following information from new customers: name, date of birth, street address, and a government-issued identification number. The identification number for U.S. citizens must be a Social Security or taxpayer ID number. For non-U.S. citizens, the number may be a Social Security number, individual taxpayer identification number (ITIN), OR the number from a U.S. or foreign government-issued ID that includes the person's photo (or similar safeguard) and nationality or residence — for example, a passport or consular ID. See, e.g.: www.ncua.gov/reg_alerts/2003/03-RA-07Encl.pdf or www.ots.treas.gov/docs/2/25202.pdf.

Under Bank Secrecy Act/Anti-Money Laundering rules, banks are also required to file Suspicious Activity Reports (SARs) to report known or suspected criminal activity. The number of SARs filed by financial institutions has skyrocketed over the past decade, with depository institutions alone filing 732,563 SARs in 2008, compared to 203,538 in 2001.³¹ The U.S. Department of Treasury's Financial Crimes Enforcement Network (FinCEN), which receives and tracks SARs, attributed the increase in reports to "defensive filing" by financial institutions that were "becoming increasingly convinced that the key to avoiding regulatory and criminal scrutiny under the Bank Secrecy Act is to file more reports, regardless of whether the conduct or transaction identified is suspicious."³²

A representative of a large, national bank that offers ITIN mortgages reported to advocates in 2006 that the bank routinely filed "preemptive" SARs on many of its ITIN mortgage loan borrowers – not

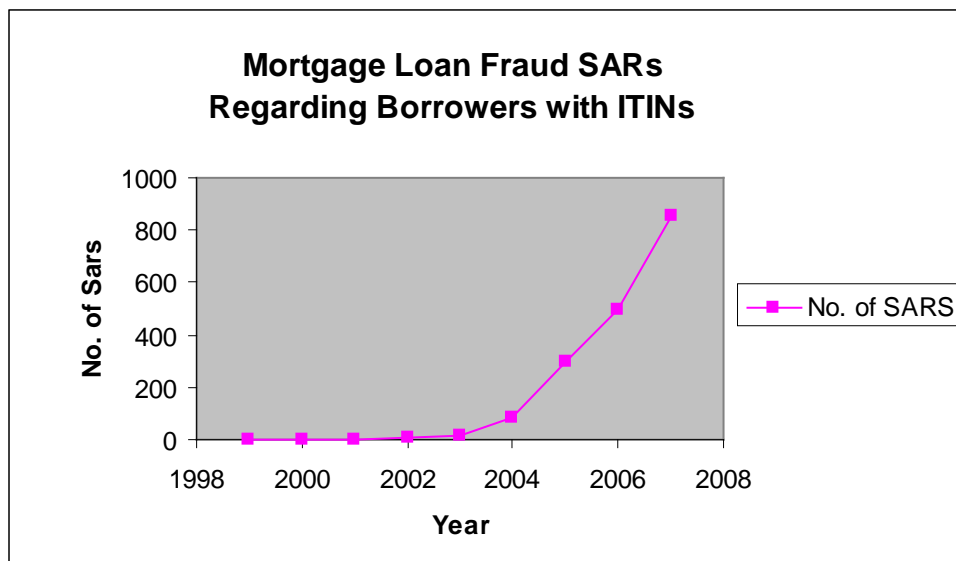
²⁹ Section 326 of the PATRIOT Act requires financial institutions to collect at least the following information from new customers: name, date of birth, street address, and a government-issued identification number. For U.S. citizens, this identification number is their Social Security Number. For non-U.S. citizens, the number may be a Social Security number, individual taxpayer identification number (ITIN), or the number from a U.S. or foreign government-issued ID that includes the person's photo (or similar safeguard) and nationality or residence — for example, a passport or consular ID card. See www.ncua.gov/reg_alerts/2003/03-RA-07Encl.pdf or www.ots.treas.gov/docs/2/25202.pdf.

³⁰ See NEDAP, *Promoting Financial Justice for Immigrant New Yorkers* (Aug. 2006), and *Ensuring Access to Fair and Affordable Financial Services: A Survey Report on Barriers Faced by Low Income Immigrants in NYC* (Feb. 2009).

³¹ FinCEN, *The SAR Activity Review – By the Numbers*, Issue 13 (Jan. 2010).

³² Statement of William J. Fox, Director Financial Crimes Enforcement Network United States Department of the Treasury Before the U.S. House of Representatives Committee on Financial Services Subcommittee on Oversight and Investigations (May 26, 2005).

because the bank believed they had committed any crimes, but as a way to protect the institution against possible sanctions by examiners. FinCEN reported an increase in mortgage loan fraud SARs filed involving individuals with ITINs, beginning in 2004, which suggests that other banks may have followed similar practices. These filings raise concerns around unwarranted risks to which banks may be exposing immigrant homebuyers.



Foreclosures in Immigrant Communities

The continuing foreclosure crisis has reversed many of the gains made in homeownership over the past decade, particularly among people of color. Limited research has been done on foreclosures among immigrant homeowners, or among immigrants from different countries of origin. This section explores some of the research, as well as anecdotal evidence and impressions of NYC foreclosure prevention counselors, and includes GIS maps to spatially depict foreclosure patterns in immigrant neighborhoods in New York City.

The impact of foreclosures on foreign-born vs. native-born homeowners is unclear. Pew Research Center, for example, has found on the one hand that counties with higher shares of immigrants have higher rates of foreclosure.³³ On the other hand, it found that between 2006 and 2008, the homeownership rate fell less sharply for immigrants than it did for native-born people – by 0.4% among immigrants, compared to 1.5% among the U.S.-born.

Foreclosures have undoubtedly affected immigrants in many parts of the country, as a result of the economic decline and loss of jobs in construction and other sectors where immigrants are disproportionately represented. The drying up of the ITIN mortgage market has also reduced financing options for undocumented immigrants, including those who may have received adjustable

³³ See Pew, *Through Boom and Bust, Minorities, Immigrants and Homeownership*. Pew found, for example, that of two counties with similar economic and demographic characteristics, the one whose immigrant share of the population was 10% higher than the other had a foreclosure rate that was 0.6% higher.

rate ITIN mortgages that now require refinancing or modification. The federal Home Affordable Modification Program (HAMP) guidelines do not preclude modification of ITIN mortgage loans; however, many ITIN loans are serviced by entities that are not participating in HAMP.

In New York City, the number of foreclosure filings on 1-4 family homes increased from 6,873 in 2005 to 13,694 in 2008.³⁴ The highest number of home foreclosure filings were in Queens County, where almost half the population (46%) is foreign-born. Among neighborhoods hardest-hit by foreclosures in all five boroughs of NYC, many have higher shares of immigrants than NYC as a whole. (See attached map.)

Foreclosure Actions Filed* New York City				
Borough	2005	2006	2007	2008
Bronx	808	1,128	1,585	1,619
Brooklyn	2,557	3,307	4,895	4,746
Manhattan	39	43	62	65
Queens	2,666	3,624	5,789	5,660
Staten Island	803	986	1,500	1,604
NYC Total	6,873	9,088	13,831	13,694

*based on *lis pendens* of mortgage default filings filed on 1-4 family homes (Source: Profiles Publications)

Chhaya Community Development

Corporation, based in Jackson Heights, Queens, has estimated that in some zip codes in Queens, more than 50% of homeowners in default on their mortgages are South Asian.³⁵ The organization, which provides home purchase as well as foreclosure prevention counseling, has noted that many of the mortgage brokers who steered immigrants into unaffordable loans have converted to for-profit “foreclosure rescue” and “loan modification” outfits – essentially promising to bail out the same homeowners they helped get into bad loans. Overcrowding has worsened, as homeowners rent out rooms or illegally converted units in their homes in order to keep up with mortgage payments. According to Chhaya, helping homeowners secure affordable loan modifications is difficult, particularly among immigrants who are self-employed or work in cash and have underreported income; this makes it difficult to verify homeowners’ income and their eligibility for loan modifications or refinancing under the federal Home Affordable Mortgage Program (HAMP) guidelines.³⁶

Asociación Tepeyac, a nonprofit immigrant service organization, began outreach around fair lending and foreclosure issues in 2007, in response to a surge in foreclosure cases among low income and undocumented immigrants. In virtually every case identified by Tepeyac, unscrupulous realtors and mortgage brokers had steered families into buying homes at inflated values, with very high-cost mortgages. The unsuspecting families, who typically made significant down payments and paid thousands of dollars in up-front fees, relied on what they believed to be reputable advice from real estate professionals within their communities.³⁷ Instead, they were targeted for some of the most egregious loans that foreclosure prevention attorneys in NYC had seen. (See sample loan document

³⁴ Neighborhood Economic Development Advocacy Project estimates, based on *lis pendens* filings obtained from Profiles Publications, Inc.

³⁵ See <http://www.chhayacdc.org/images/Chhaya%20Press%20Release%20and%20Supporting%20Materials%201%2012%202009.pdf>

³⁶ Interview with Seema Agnani, Executive Director, Chhaya CDC.

³⁷ Interviews with Teresa Garcia, Asociación Tepeyac.

below, provided by a Tepeyac client.) News stories about similar scams in other parts of the country abound.³⁸

Prepared by: [REDACTED]

TRUTH IN LENDING DISCLOSURE STATEMENT
(THIS IS NEITHER A CONTRACT NOR A COMMITMENT TO LEND)

LENDER: [REDACTED] Preliminary Final
DATE 11/28/2006

BORROWERS: [REDACTED] LOAN CASE NO. [REDACTED]
Type of Loan NCARM LBR 2/28 BC
5yr IO

ADDRESS [REDACTED]
CITY STATE / ZIP STATEN ISLAND, NY 10312
PROPERTY [REDACTED]

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost you.	Amount Financed The amount of credit provided to you or on your behalf.	Total of Payments The amount you will have paid after you have made all payments as scheduled.
12.566 %	\$ 1,160,881.10	\$ 381,567.46	\$ 1,542,448.56

PAYMENT SCHEDULE:

NUMBER OF PAYMENTS	AMOUNT OF PAYMENTS	WHEN PAYMENTS ARE DUE
24	3,392.33	MONTHLY BEGINNING 01/01/2007
6	3,876.95	MONTHLY BEGINNING 01/01/2009
30	4,200.03	MONTHLY BEGINNING 07/01/2009
299	4,372.56	MONTHLY BEGINNING 01/01/2012
1	4,374.60	LAST PAYMENT DUE 12/01/2036

Truth in Lending Disclosure Statement – Mr. and Mrs. R

Mr. and Mrs. R, who are undocumented immigrants from Mexico, received a high-cost mortgage loan to purchase their home in 2006. The Rs were steered by a broker to a subprime lender, which made them a loan for \$380,000. In spite of their strong income and credit history, the Rs received a 2/28 Adjustable Rate Mortgage, with interest-only payments for the first five years. The loan had an initial interest rate of 12.6%, due to increase after two years; over the life of the loan, the interest rate could increase to as high as 18%. The Rs made on-time payments for more than two years, paying more than \$100,000 in interest – on top of a \$50,000 down payment – without reducing their principal by a single penny.

RECOMMENDATIONS

Recommendations for policymakers and fair housing enforcement agencies include:

- **Amending fair housing and fair lending laws – including the Fair Housing Act – to explicitly prohibit discrimination against non-citizens and immigrants who are not lawfully present in the U.S.** The Fair Housing Act, for example, currently prohibits discrimination on the basis of race, color, national origin and familial status, among other

³⁸ See, e.g., Kirstin Downey, “Foreclosure Wave Bears Down on Immigrants,” Washington Post (Mar. 6, 2007), and Brigid Schulte, “My House. My Dream. It Was All an Illusion,” Washington Post (Mar. 22, 2008).

factors, but does not explicitly prohibit discrimination against non-citizen or undocumented immigrants. Some local governments have passed laws that explicitly prohibit housing discrimination on the basis of citizenship or immigration status, which can serve as models to strengthen federal statutes.³⁹

- **Pressing regulated financial institutions to provide equitable banking and credit access in immigrant communities.** Low income and undocumented immigrants, in particular, face formidable barriers to fair financial services and credit access, and are frequently relegated to high-cost and predatory financial services providers. Regulatory agencies that supervise banks should, at a minimum:
 - Jointly issue clear guidance to financial institutions affirming the legality under existing laws to open bank accounts and provide loans – including mortgages – to individuals regardless of their immigration status. Train bank examiners and ensure consistent enforcement of rules. Many banks cite examiner scrutiny and fears of a “regulatory crackdown” as the basis for maintaining policies that effectively discriminate against immigrants.
 - Educate regulated institutions on ways to offer equitable access to all communities within safety and soundness of banking laws, and to comply with the Community Reinvestment Act and other statutes.
- **Evaluating the extent to which banks meet the credit needs of immigrant communities in Community Reinvestment Act examinations.** Consideration is already given to banks’ provision of low-cost money transfer (remittance) services; the same could be done to encourage, for example, the opening of bank accounts or provision of mortgage and other loans to immigrants, including with ITINs.
- **Examining banks and lenders for possible discrimination against foreign-born individuals.** Regulators should flag and address instances in which financial institutions inquire about a customer’s immigration status, for example, or offer costlier or inferior products to immigrants than to other customers.

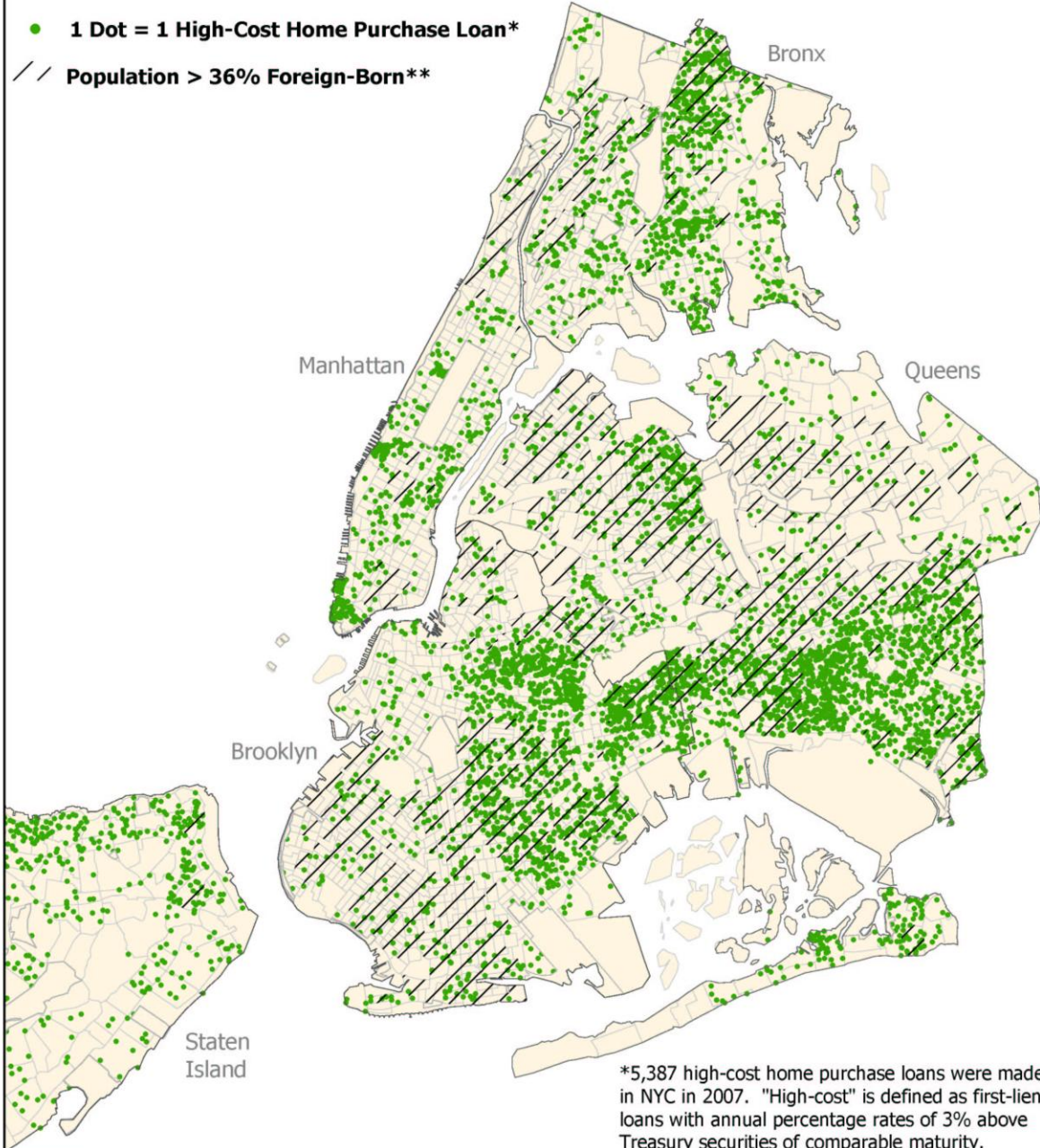
CONCLUSION

Immigrants represent an ever-growing percentage of residents in the U.S., in rural and urban communities throughout the country. Additional research is needed to identify the scale and nature of lending and real estate abuses leveled at immigrant populations, and to develop appropriate public policy and other responses. Addressing the needs and concerns of foreign-born individuals in the housing and credit markets will be increasingly critical for policymakers and agencies charged with supervising financial institutions and enforcing fair housing and anti-discrimination laws.

³⁹ See, e.g., NYC Human Rights Law, available at <http://www.nyc.gov/html/cchr/html/hrlaw.html>.

HIGH-COST LENDING IN IMMIGRANT NEIGHBORHOODS

New York City - 2007



*5,387 high-cost home purchase loans were made in NYC in 2007. "High-cost" is defined as first-lien loans with annual percentage rates of 3% above Treasury securities of comparable maturity.

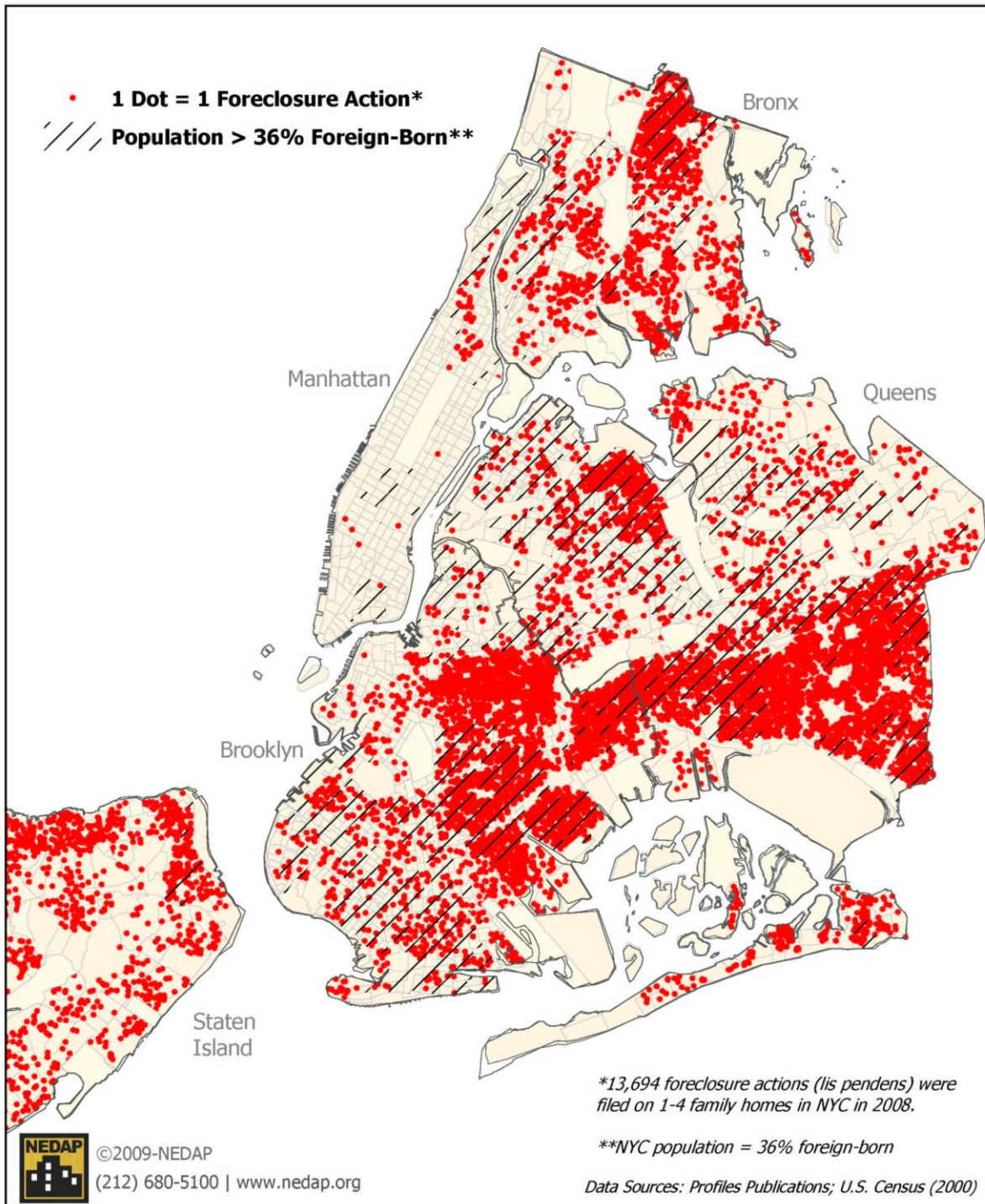
**NYC population = 36% foreign-born
Sources: HMDA (2007); Census 2000



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FORECLOSURES IN IMMIGRANT NEIGHBORHOODS

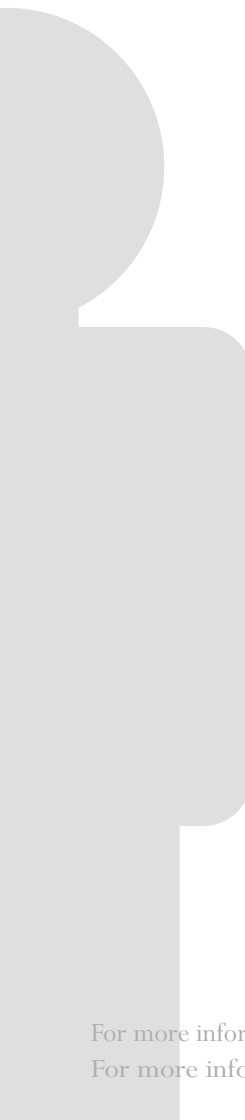
New York City - 2008



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