Testimony of Scott Bernstein, President

Center for Neighborhood Technology

To the

House of Representatives Judiciary Committee,

Sub-Committee on Commercial and Administrative Law

Field Briefing on Home Foreclosures in Memphis

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Scott Bernstein
President
Center for Neighborhood Technology
2125 W. North Avenue
Chicago, Il. 60647
773 269 4035
www.cnt.org
scott@cnt.org

Summary

Chairman Cohen, ranking member Franks, Committee Chair Conyers, and members of the sub-committee:

I am Scott Bernstein, President of the Center for Neighborhood Technology in Chicago. I thank you for the opportunity to share some recent research findings on a contributing cause to home foreclosures and bankruptcies and to offer some recommendations for near-term remedies that could be implemented quickly

The foreclosure crisis in American regions started out as a central city problem, but quickly grew to regional proportions. In many if not most regions, foreclosures are now growing more quickly in the suburbs than in the central city. In Chicago, over the last decade, foreclosures grew 4.2 times more quickly in the suburbs, and cumulatively, represent an equal number to those in the central city. In Shelby County, over the same period, foreclosures grew 2.1 times as fast in the suburbs as in the city of Memphis, and cumulatively are 35% of total filings in this period.

CNT acquired a data set of foreclosure filings in metropolitan Memphis and a set for metropolitan Chicago covering the period 2000 to 2010, then geo-coded and mapped these events. CNT also acquired and mapped a data set of bankruptcy filings from the Department of Justice's PACER system for 2006 to 2010. Both sets of maps were prepared at the scale of census block group, with an average of five block groups per census tract. One key finding is that financial stress has grown quickly outside of the central city as well as within, a finding consistent with recent national research in regions from Louisville Kentucky to Los Angeles California.

Next, we examined the cost of transportation for households in each of Memphis' 838 block groups. We used the Housing + Transportation Affordability Index developed by CNT with the support of the Brookings Institution and leading foundations, and vetted by the National Academy of Sciences. This Index has been prepared for all 161,000 block groups in all 337 metropolitan regions. We also examined the weekly and monthly trends in foreclosure filings and compared this with the weekly change in gas prices 2000-2010. We found that whenever gas prices spiked, foreclosures typically followed within six to nine months.

We found that the average cost of housing in Memphis represents about 27% of typical household income but that the sum of housing and transportation costs came to 52% of income for area median income households. For households earning just 80% of median income, those costs rose to 33% for housing and 63% for the combined housing and transportation cost. While the median household income rose by $663 per month from 2000 to 2008, monthly Housing + Transportation expense increased by $513 for one-car households and $619 for two-car households. ***This increase wiped out all but $150/month of the net income increase for one-car and $44/month for two-car households.*** And this left little to pay for all other increases in the cost of living— such as food, medical care and mortgage resets.

Bankruptcy filings exhibit a similar spatial pattern to the one for foreclosures in Shelby County. While nationally, concern was expressed that the Bankruptcy Abuse Prevention & Consumer Protection Act (BAPCPA, PL 109-8) would make it difficult for households to qualify for bankruptcy protection, filings nationally and regionally have soared to record levels. This would indicate that in the crisis we're living with, BAPCPA has worked. However, we also critically examined the means test used by the U.S. Trustee's office for bankruptcy qualification, and in particular the allowances for the cost of transportation provided by the IRS through the Collections Financial Standards. These cost allowances as assigned are a single number per region for each of two cohorts (single vehicle and two vehicle households). Memphis, for this purpose, is assigned costs as part of the South Region, for which the allowances are $496 per vehicle for ownership and $239 for operating, which sums to $735 per month or $8,820 per year for a single vehicle. For two vehicles, the allowances are $992 for ownership and $478 for operating, which sums to $1470 per month or $17,640 per year.

However, we have at least two concerns with this method—

- Using a single number to represent an entire region's cohort of vehicle owners is inaccurate, and with the advent of the new Housing + Transportation Affordability Index, unnecessary. The inaccuracy stems from the range of location efficiencies across a region, as mentioned above. In the case of Memphis, typical vehicle ownership measured at the block group level ranges from 1.1 to 2.1 vehicles per household and miles driven also varying from 9,000 to 29,000 per household per year; and

- The construction of this table seems to indicate that owners of three or more cars per household must live with a two-car allowance. As noted, the portion of Shelby County households owning 3 or more cars increased from 20 percent to 27 percent, from 2000 to 2008. The table of allowances offered by the IRS and linked to the U.S. Trustee's site excludes this cohort of households owning three or more cars, numbering at least 27%, or 84,000 households and growing, from being able to use the full cost of transportation to obtain legal protection from creditors.

While it can be stipulated that the high cost of transportation associated with needing to own three or more cars is by itself a problem, it's a problem that has been aided and compounded by the lack of any systems that disclose the full cost of a location when both housing and transportation costs are taken into account. Under the current federal Administration, the secretaries of HUD and DOT and the USEPA administrator have committed to redefine affordability to include these costs, and HUD Secretary Donovan has taken steps to make this information more universally and easily available. In the meantime, the significantly faster growth rate of foreclosures and bankruptcies in the suburbs signals the need for relief now, and the proposed method is a step in the right direction.

We note that beyond the IRS allowances, the reform law permits current income to be reduced for other expenses. For example, this includes home energy costs in excess of the IRS housing and utility standards, with proper documentation and justification; but no such procedure is indicated for household transportation expenditures, which can easily be 4 to 5 times higher than home energy expenses.

Recommendations

1. Current data on foreclosures and bankruptcies and their warning signs should be made available in the public domain, and/or systems should be implemented to lower the cost of acquisition for data necessary to provide early warning of local financial distress and to craft necessary responses.
2. Allow the use of local Housing + Transportation Affordability data in IRS Form 22 and in the means test, and in any associated financial counseling programs.
3. Explore enabling the Department of Justice and the Department of the Treasury to join and participate in the Partnership for Sustainable Communities, currently consisting of the Secretaries of HUD and DOT and the USEPA Administrator, to identify and launch initiatives to reinforce a systematic approach to ensuring household and regional economic security.
4. Work to ensure that pending legislation intended to increase transportation choice and to lower the cost of living, such as the proposed Livable Communities Act and the pending SAFETEA-LU reauthorization, sets household economic security as a performance measure, making it possible and likely that funds spent in the name of regional performance are targeted to strategies that reduce the combined cost of housing and transportation and that increase consumer choice in the means of transportation.
5. Make place matter in future hearings and policy deliberations on foreclosures and bankruptcy. This means developing an approach to these issues that takes local conditions into account, including differences within regions; and
6. Support underwriting standards that take energy and transportation expenditures into account in mortgage qualification generally, and in future experiments intended to increase both safety and soundness and mission in the provision of financial services, such as Energy Efficient Mortgages (EEMs) and Location Efficient Mortgages (LEMs).

My sincere thanks for providing an opportunity to share these findings with the committee and to help advance an agenda for enhanced economic security.