

Predatory Lending, Race & Long Island: A Look at the Communities Most Affected and Racial Disparities

The nationwide practice of predatory lending, from large financial institutions to small financiers, are a part of the mortgage foreclosure disaster that has been in the news since 2006. The intense instability in financial markets worldwide and the near collapse of a long revered American financial institution on Wall Street in early 2008 are only part of the story. Millions of Americans face foreclosure and possible homelessness. Some Americans were railroaded into subprime loans because they were members of a protected class, even though they had credit that should have qualified them for a prime rate loan. The vast majority of those taken advantage of were people of color, the elderly and single women with children. It is essential that people facing foreclosure due to allegedly fraudulent or unaffordable mortgages have a sound understanding of predatory lending to ensure that they get help if they believe they were victims. Due to the vast number of foreclosure actions occurring across the nation and the urgent need for public education, ERASE Racism offers the following synopsis of the problems surrounding high cost loans and predatory lending.

Predatory lending is illegal under the fair housing laws. How can you identify a predatory loan? The National Community Reinvestment Coalition (NCRC) defines a predatory loan as “an unsuitable loan designed to exploit vulnerable and unsophisticated borrowers. Predatory Loans are a subset of subprime and non-traditional prime loans.”ⁱ A predatory loan may:

- 1) charge more in interest and fees than is required to cover the added risk of lending to borrowers with credit imperfections;
- 2) contain abusive terms and conditions that trap borrowers and lead to increased indebtedness;
- 3) not take into account the borrower’s ability to repay the loan; and
- 4) violate fair lending laws targeting women, minorities and communities of color.ⁱⁱ

Predatory lending occurs when a lending institution, mortgage broker or real estate professional steers an individual towards a subprime (high cost) loan when the borrower qualifies for a prime rate loan because of their race or membership in another protected class. The most frequent targets of this illegal practice are African Americans, Latinos, other people of color, and the elderly. Predatory lending occurs in all forms of lending including reverse mortgages and refinancing.

Subprime loans are legal and offer individuals with less than stellar credit the opportunity to purchase a home when they do not qualify for a prime rate loan through a traditional lender. A subprime loan has a much higher rate of interest and is therefore much more expensive than a prime rate loan. They often contain oppressive terms that sink borrowers into deeper debt if they are late on a payment, and exorbitant pre-payment penalties if they try to refinance into a

cheaper loan or pay off the entire debit early. A common theme among subprime loans is a low “teaser” interest rate that explodes after the initial period and usually at least doubles the original monthly payment amount. Most borrowers cannot afford the adjusted rates and should have never qualified for the loan. The result is many borrowers lose their homes to foreclosure.

A plethora of articles have appeared in the national news reporting the devastating affects of predatory lending on homeownership, home equity building, rates of foreclosures and the threat of destabilization of the U.S. financial markets by the collapse of high-risk exotic loans.ⁱⁱⁱ In August 2007, the destabilization of the subprime mortgage industry in the U.S. had a significant negative affect on financial markets in Europe, Australia and Japan, virtually eliminating confidence in some hedge funds and other stock.^{iv} Congress and some state legislatures are debating passing measures to protect families from foreclosures and to stabilize financial markets.^v Senator Charles Schumer stated that with the soaring foreclosure rate due to subprime lending on Long Island, 8,378 families in Nassau and 10,476 in Suffolk will be at risk of losing their homes by the end of 2008.^{vi}

The Center for Responsible Lending (CRL) stated in its report “*Losing Ground: Foreclosures in the Subprime Market and Their Cost to Homeowners*” issued in December 2006:

... [f]oreclosure rates will increase significantly in many markets as housing appreciation slows or reverses. As a result, we project that 2.2 million borrowers [nationwide] will lose their homes and up to \$164 billion of wealth in the process ... many of the features of typical subprime loans substantially increase the risk of foreclosures, regardless of the borrower’s credit history.^{vii}

The African American community, followed by the Latino community, receives a disproportionate share of subprime loans regardless of income and creditworthiness. These populations will bear the brunt of subprime foreclosures on Long Island. NCRC published in its July 2007 report “*Income is No Shield Against Racial Differences in Lending*” that African Americans of all income levels were twice as likely or more than twice as likely to receive high-cost loans as whites in 171 metropolitan statistical areas (MSAs) during 2005.^{viii}

NCRC published the following statistics for the Nassau-Suffolk County area, based on the 2005 mortgage data available, for all members of each community, for low to moderate income (LMI) members, and for middle to upper income (MUI) members within each community^{ix}:

	<u>All</u>	<u>LMI</u>	<u>MUI</u>
% of High-Cost Loans to African Americans:	47.5%	40.9%	2.4%
% of High-Cost Loans to Latinos:	44.1%	33.6%	9.1%
% of High-Cost Loans to Whites:	22.5%	21.5%	23.9%

NCRC's study strongly supports the fact that African Americans on Long Island are more than twice as likely to receive a subprime loan. This directly affects the ability of African American families to build individual wealth. A subprime loan usually costs the borrower between \$50,000 and \$100,000 more than a prime rate mortgage over 30 years. This can directly affect whether a family can afford to send a child to college.^x

In March 2008, the Empire Justice Center released its report "*Curbing the Mortgage Meltdown: the Impact of foreclosures on New York's Economy and on Upstate and Long Island Communities.*" The report focused on the effects of foreclosures on the State as a whole as well as on an individual county level. The information that follows about Long Island is derived from that report.

The statistics derived from the data supplied to the Empire Justice Center, from the Federal Reserve Bank, are a great cause for concern for Nassau and Suffolk County. Nassau and Suffolk County together contain:

- 28% of all subprime loans issued in New York State;
- 33% of all subprime loans in foreclosure in New York State;
- 30% of all subprime loans that are 30 day or more delinquent in New York State; and
- 30% of all subprime loans scheduled to reset before Oct. 1, 2009.^{xi}

Nassau and Suffolk County, when ranked separately compared to all counties in New York State, rate as follows:

- *Subprime foreclosures*; Suffolk County takes first place (2,878) and Nassau County is number four (1,649).
- *Subprime loans 30 or more days delinquent*; Suffolk County takes first place (5,177) and Nassau County third place (3,232).
- *Subprime loans scheduled to reset before Oct. 1, 2009*; Suffolk County takes first place (5,130) and Nassau County third place (3,948).^{xii}

The effects of foreclosures on Long Island will likely be greater than in most other counties in New York due to the disproportionate number of houses in jeopardy on Long Island. Wells Fargo has compiled a list identifying hundreds of counties across the nation as "distressed" or "severely distressed." Suffolk and Nassau Counties are the only two counties in New York State that appear on the distressed list.^{xiii} This means that Long Island borrowers looking to qualify for a

homeownership mortgage will be required to have next to perfect good credit and larger down payments.

The affects of foreclosure, however, go far beyond homeowners losing their houses and tighter credit requirements. Negative repercussions will be felt by all New Yorkers. The Empire Justice Center states that if foreclosures are not curtailed, by Oct. 2009:

- 125,000 homes in New York State alone will go into foreclosure, which will result in a \$65 billion tax base decline – this will likely impact most public services, and State and local government budgets.
- 3.5 million neighborhoods in New York State will be affected by a drop in property values; more than one foreclosure in a neighborhood results in an average decline of \$18,000 in property values in the immediate neighborhood.^{xiv}
- New York State will lose \$760 million in property, transfer and sales tax revenue in 2008.
- New York State will lose nearly \$13 billion in gross metropolitan product in 2008.^{xv}

Furthermore, seven out of ten of the areas with the highest foreclosure rates and delinquencies of 30 days or more, for all of New York State, are in Suffolk and Nassau County:^{xvi}

No. Ranked in New York State For Most Affected by Mortgage Crisis	Town/City/Village	County	% of Homes in Foreclosure or Over 30 days Delinquent	Total No. of Subprime Loans in Town/City/Village
1	Wyandanch	Suffolk County	43.3%	out of 581
2	Mastic Beach	Suffolk County	43%	out of 532
3	Ridge	Suffolk County	40.8%	out of 201
5	Farmingville	Suffolk County	39.4%	out of 287
8	Mastic	Suffolk County	38.4%	out of 557
9	Shirley	Suffolk County	38.4%	out of 813
10	Freeport	Nassau County	38.1%	out of 1,094

When race is taken into consideration the affects of the mortgage crisis created by subprime loans and unscrupulous lenders is even more devastating. African Americans in Suffolk County are three times more likely than white homeowners to live in the most impacted jurisdictions.^{xvii} In Nassau County, African Americans are four times more likely than white homeowners to live in areas most impacted by foreclosures.^{xviii} African American homeowners will most likely bear the brunt of losses in home equity and losses in tax bases for neighborhoods, which can result in the reduction of tax-based services like public school education, and the decline in growth of personal wealth creation.

The three most impacted neighborhoods in Nassau County and Suffolk County contain the largest concentrations of African American homeowners.

Nassau County:

The top three communities in Nassau County with the highest rates of foreclosure and at-risk housing:

1. *Hempstead* – 475 homes in foreclosure – 18% of Nassau County's African American homeowners reside here.
2. *Freeport* – 417 homes in foreclosure – 12% of Nassau County's African American homeowners reside here.
3. *Elmont* – 399 homes in foreclosure – 12% of Nassau County's African American homeowners reside here.^{xix}

Further analysis of at-risk homes by zip code compared with racial demographics supports the conclusion that African American homeowners live in concentrated areas, created through segregation, and will be most heavily impacted by foreclosure in Nassau County compared to white homeowners.

- 60% of at-risk housing is concentrated in 10 out of 67 zip codes county-wide.
- 85% of Nassau County's African American homeowners live in these 10 zip codes.
- 20% of all white homeowners live in these 10 zip codes.
- 42% of Nassau County African American homeowners live in the three neighborhoods most impacted by foreclosures.^{xx}

Suffolk County

The top three communities in Suffolk County with the highest rates of foreclosure and at-risk housing:

1. *Amityville* – 623 homes in foreclosure – 11% of Suffolk County's African American homeowners reside here.
2. *Brentwood* – 526 homes in foreclosure – 8% of Suffolk County's African American homeowners reside here.

3. *Central Islip* – 433 homes in foreclosure – 11% of Suffolk County's African American homeowners reside here.^{xxi}

Further analysis of at-risk homes by zip code compared with racial demographics supports the conclusion that African American homeowners live in concentrated areas, created through segregation, and will be most heavily impacted by foreclosure in Suffolk County compared to white homeowners.

- 42% of at-risk housing is concentrated in 10 out of 102 zip codes county-wide.
- 66% of Suffolk County's African American homeowners live in these 10 zip codes.
- 20% of all white homeowners live in these 10 zip codes.^{xxii}

When coupled with predatory lending practices, subprime loans have a catastrophic affect on the rate at which African American families amass personal wealth when compared to similarly situated white families. As a result, the borrower receives a much more expensive loan for which s/he qualifies, with oppressive terms. This has a direct affect on borrowers' ability to build equity in their home and create personal wealth.

Predatory lending can be reported to any of the private or public fair housing enforcement agencies. On Long Island, Long Island Housing Services (LIHS) has implemented an initiative focused on predatory lending and has brought cases in court for clients. The New York State Division of Human Rights (NYSDHR) has also started to focus on predatory lending since the change in administration in January 2007. The New York State Department of Banking (NYSDB) commenced a public campaign called HALT (Halt Abusive Lending Transactions) at the beginning of 2007 to reach out to housing advocates, agencies and private individuals who are affected by subprime mortgage loans and are at risk of foreclosure.^{xxiii} Part of the education offered addresses predatory lending. NYSDB reported that it is working with NYSDHR when predatory lending is suspected or uncovered.

It is clear that Congress and state legislatures must enact strong anti-predatory and fair lending legislation and federal and state regulatory agencies must vigorously enforce the law against perpetrators. Without proper enforcement against predatory lending both homeowners and investors remain at risk.

ⁱ National Community Reinvestment Coalition, *Income is No Shield Against Racial Differences in Lending: A Comparison of High-Cost Lending in America's Metropolitan Areas* (July 2007) pp.7.

ⁱⁱ Ibid.

ⁱⁱⁱ Vikas Bajaj & Julie Creswell, *Mortgages give Wall St. New Worries*, N.Y. Times C0 (June 19, 2007); Julie Creswell, *Shaky Markets Prompt Rumors of Who's in Trouble*, N.Y. Times C0 (Aug. 10, 2007).

^{iv} Jeremy W. Peters & Wayne Arnold, *U.S. Stock Down at Open After Global Markets Drop*, N.Y. Times (Aug. 10, 2007).

^v National Community Reinvestment Coalition, pp. 6.

^{vi} Sid Cassese, *Plans to Stem Foreclosures: Schumer Working on Laws to Protect Against Predatory Lending*, Newsday A47 (April 2, 2007).

^{vii} The Center for Responsible Lending, *Losing Grounds: Foreclosures in the Subprime Market and Their Cost to Homeowners* (December 2006) pp.2.

^{viii} National Community Reinvestment Coalition, pp.5.

^{ix} *Id.*, Appendix, Tables 1-7 & 9-11.

^x *Id.*, pp. 7 & 8.

^{xi} Maker, Ruhi. *Curbing the Mortgage Meltdown: the Impact of foreclosures on New York's Economy and on Upstate and Long Island Communities*, Empire Justice Center (March 2008), pg.18.

^{xii} *Id.*, at pg. 15-17.

^{xiii} *Id.*, at pg. 40.

^{xiv} *Id.*, at pg. 20 quoting: <http://www.responsiblelending.org/pdfs/new-york-state-info-with-fc-starts>.

^{xv} *Id.*, at pg. 21 quoting: *U.S. Metro Economics: the Mortgage Crisis*, Prepared for the United States Conference of Mayors and the Council for the New American City, Global Insight, Inc. (November 2007).

^{xvi} Maker at pg. 14. All information from the chart is included in this cite.

^{xvii} *Id.* at pg. 30.

^{xviii} *Id.* at pg. 37.

^{xix} *Id.* at pg. 38.

^{xx} *Id.* at pg. 37.

^{xxi} *Id.* at pg. 31.

^{xxii} *Id.* at pg. 30.

^{xxiii} Homeowners who are experiencing difficulties with their mortgage in Nassau County can call the Default Counseling Prevention Hotline at (516) 571-4663 to speak with certified counselors to review options. The program is run by Nassau County and is free of charge. Homeowners in Suffolk County can contact Long Island Housing Partnership to receive similar services and counseling free of cost by calling (631) 435-4710.