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A Final Report for

The Limits of Ownership: Residential Foreclosure and Its Impact in Buffalo, New York

A UB2020 IRDF Project

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Introduction

There has been a sharp increase in foreclosures over the last decade throughout the United States. In places like Buffalo – also known as the “Rustbelt” – foreclosures or mortgage default can wreck havoc on middle- and lower-income residents. For this project, we interviewed 10 individuals about their experiences with foreclosure to learn more about the dynamics that led to their mortgage default. We also interviewed 10 individuals who had not foreclosed on their homes in order to compare the different types of experiences. For both groups of respondents, we completed in-depth interviews related to homeownership and foreclosure.

Methods

Our interdisciplinary team of UB scholars and clinicians in cooperation with UB graduate and law students, local public officials, and community workers worked hard to gain a better understanding of the pathways into foreclosure and the impact that foreclosure has on individuals, families, and neighborhoods. We developed a survey and a script to obtain respondents. In the summer of 2007, we began the challenging process of identifying and obtaining an appropriate sample of respondents for the study. Because there is no real list of foreclosures we had to develop our own using a number of approaches. First, we talked with key leaders in the Buffalo foreclosure world including Athena McCrory and Mike Pacifico at the Legal Aide Bureau, Leslie Vishwanath at the Urban Center Housing Department, Linda Chiarenza at West Side Neighborhood Housing Services, and Aaron Bartley at PUSH. Second, we met with the Erie County Clerk on August 14 which produced a city-wide list of *lis pendens* (or pre-foreclosures). We have also visited the Erie County Clerk’s office multiple times to search a public view database. And third, we used foreclosure.com to help develop a list using public data. As the list developed we canvassed neighborhoods with Aaron Bartley and PUSH

interns to try and recruit respondents. Early on, we also attempted to recruit potential respondents over the telephone after locating respondents' contact information in directories. This method ultimately proved unproductive, however, as directory records were often incomplete and out of date.

We encountered a series of roadblocks as we attempted to interview individuals about their foreclosure experiences. From the larger universe of *lis pendens* filings in three high foreclosure risk neighborhoods that we identified in Buffalo, we went door-to-door to recruit approximately 120 individuals for interviews. Out of those 120 attempts, we had the following outcomes: refusal; no show for the interview that was scheduled; the property was abandoned or vacated; the potential respondent was not home or did not answer the door; a handful of completed interviews. Therefore, we have had a relatively small 8% response rate for the interviews. In the end, we interviewed 10 individuals who had experienced foreclosure and another 10 individuals from the same neighborhoods who had not foreclosed.

For both groups, an in-depth, often open-ended survey collected case history data on (1) respondent life course and demographics, (2) respondent mortgage history, (3) the challenges of homeownership, (4) respondent pathways into foreclosure or not, (5) experience with the Buffalo Housing Court, and (6) the impact of foreclosure on individual and family well-being. Some of the specific questions asked were about income, employment history, marital status, number of children, life course events, racial and class composition of neighborhood, type and condition of house, age of owner, type of mortgage, utility costs, race and ethnicity of owner, educational status, health and well-being, gender, participation in pre-home ownership counseling, as well as data on the characteristics of the spatial location of each individual and the socio-legal history of the property.

Results

Comparing Foreclosure and Non-Foreclosure Samples

Table 1 shows the descriptive statistics for our respondents separated by their foreclosure status. On average, the individuals across the two groups were similar in age. In terms of gender, we only interviewed one man who had experienced foreclosure, compared to three men in the non-foreclosure sample. There were more blacks in the foreclosure group than in the non-foreclosure one. Marital status was similar with 40% in each group being married, but we interviewed more non-married persons in the foreclosure sample. There were important differences in terms of education; 40% of the foreclosure group did not have a bachelor's degree whereas 90% of the non-foreclosure sample did have at least a bachelor's degree. This is reflected in the types of occupations and in the incomes of the two groups. These are small, non-probability samples and inferences to the relevant populations are inappropriate.

Pathways into Foreclosure

Table 2 displays a number of factors related to housing and homeownership. Four key factors stand out in this table. An important difference is that 100% of our foreclosure respondents were first-time mortgage borrowers compared to half of the non-foreclosures. In terms of actual payment amounts, foreclosure respondents had higher mortgage amounts and higher monthly payments, on average. And, 3 out of the 10 foreclosure respondents had an adjustable rate mortgage compared to only one of the non-foreclosures. Although most of the respondents originated their mortgages after 2000, more of our foreclosure respondents purchased a home compared to the non-foreclosure respondents.

In Table 3 we turn to personal finance and debt. About the same percentage of respondents in both groups had little problems qualifying for a loan (80% among both groups) and believed they had good credit (60% among both groups). However, post-origination an

interesting development occurs. While 60% of foreclosure respondents claimed to be in debt compared 90% of non-foreclosure respondents, foreclosure respondents accumulated additional debt post-origination and non-foreclosure respondents paid down their debts (on average). We also asked the respondents if they had declared bankruptcy and half of the foreclosure respondents had by the time of the interview compared to only 10% of the non-foreclosure respondents. Additionally, only one foreclosure respondent had any personal savings compared to 4 of the 10 non-foreclosure respondents. In sum, the data in Tables 2 and 3 seem to indicate that, in general, the foreclosure respondents had higher mortgage-related costs (and had never had a mortgage before), incurred more non-mortgage debt, have had a much more difficult time managing that debt compared to their non-foreclosure counterparts.

How does this occur? Many scholars discuss unemployment or medical crises as precipitating events leading to foreclosure; others look to the predatory practices of the subprime lending industry. On characteristics such as unemployment and medical crises, our quantitative data suggest very little difference between the two groups we interviewed on such strains (see Table 4). In the open-ended questions about these issues, though, a number of foreclosure respondents discussed how multiple and often overlapping personal and financial hardships contributed to their mortgage delinquency and eventual default. As one respondent described:

“My son was in and out of jail. I paid exorbitant legal fees bailing him, from time to time bailing him. I got laid off. My husband got laid off. And our savings was depleted. We had to live off our savings and it was depleted. And we got that fraud against us with the home improvement people.”

According to another respondent:

“Its complicated...These people [tenants] have been here for about three years. When people move out in the winter you can't rent the apartment in the winter. That started it. I

wasn't making a lot of money. My son has a kidney transplant. He's supposed to be covered by Medicaid but they haven't...they're so inept that they have twice cut off his Medicaid because of the errors they made. And then the proof is on you. You have to prove they're wrong and in the meantime you don't get coverage. And his kidney transplant, the therapy is about \$2000 a month. So all your money goes for that. You don't pay anything else because you're dead or alive in that situation. That happened twice in the last year."

However, problems with lenders is also a clear pathway into foreclosure: None of the non-foreclosure respondents indicated problems with their lenders while 60% of the foreclosure respondents did indicate such problems either when they negotiated the original terms of their loan or in subsequent transactions with a lender after the loan had been originated. Two foreclosure respondents highlighted the unforeseen high costs associated with the adjustable interest rate of their mortgages:

"It seemed like my mortgage payment every other month was going up. It went from \$425 in January of 2005 and then by six months it was up to like five hundred something which still wasn't bad but just kept going up progressively—going up, up, up. Good Lord! What is going on here?! I would literally look at my bill like, What in the world?! How is this going up every month? It just seemed like every month it was getting higher and higher."

"[The adjustable rate mortgage] it was something that just popped up out of the blue. I didn't know about it and I wasn't prepared for it. That's what it was. I didn't know about it. I feel like the guy who is going to talk to me about a mortgage like that is going to sit me down and tell me what it consists of. Nobody told me about no adjustable rate mortgage. I thought I was getting a flat rate mortgage, you know what I'm saying."

Respondents' navigation of the foreclosure process, including their interactions with lenders and their expectation of particular outcomes, completes an important part of the story.

Navigating Foreclosure

We spent considerable time with our foreclosure respondents trying to understand how they dealt with the dynamics of mortgage default. Nine foreclosure respondents reported making late payments at some point between mortgage origination and initiation of *lis pendens*, or pre-foreclosure, actions by the mortgage lender or loan servicing agency. The median number of late payments made during this time was 5.5 for respondents in the foreclosure sample. Eight foreclosure respondents indicated that they were penalized by the lender or loan servicing agency as a result of late payment. Penalties typically took the form of incremental fees assessed to respondents in subsequent mortgage payment periods. Eight foreclosure respondents claimed to have taken actions on their own behalf that would prevent recurrence of future late payments to the lender. Several respondents reported changing or restricting patterns of household purchasing and adopting financial planning and budgeting practices. Respondents typically followed a triage approach to personal and household financial decision making. According to one respondent, who relied on her foreclosed property for investment income following a period of owner occupancy:

“I look at my bill paying system as you gotta do what you gotta do. So sometime you have to rob Peter to pay Paul. When I was living there its like you always need to pay to stay...if I couldn't pay this week when I got paid then I paid next week. Or...I just kind of juggled; I had to juggle things to get along. But when you're living there in some way you need someplace to stay so you make sure it eventually got paid.”

Another respondent noted:

“I would pay a certain bill that was due just so I could get that mortgage payment out, then that payment would be late. So its like if my light bill was due on this day, ok, I can wait until next week or give them a partial payment or something.”

Some respondents resorted to more drastic measures, such as liquidating investments, retirement accounts, or meager personal savings in order to stay current on their monthly mortgage payments or to recover from a recent default:

“There was this one particular time where I did send in a late payment and after I sent in the payment they [the lender] did send out a foreclosure notice...it makes a statement about evacuating the premises in a certain amount of time, but then it gives you a balance to pay up including court fees. Ok, so I’m like, well, if they’re going to do that then why did they send me this paper when I could’ve just done this all in one. Its kind of like, errrrrr. So it was a headache. That has happened to me before...only one time. At that time I would actually have to catch it, to get it going, back in order; with that foreclosure statement that’s when I had to pull out of the 401k.”

One respondent, who cashed in her retirement savings in order to make a partial payment to the mortgage lender, discovered that her attempt to fend off an impending foreclosure was almost made in vain:

“Banks; they don’t care. They don’t make deals with you. They take pride that they don’t make deals. They did this last time I sent them a partial payment because I don’t know they don’t take partial payments. And they put it toward legal fees. When I sent them the next check they sent it back to me. I didn’t understand why and I called and they said, Well, we don’t take partial fees [sic]. I said, Well I didn’t authorize that...If you send us the other half by this date then we’ll change that. But they’re not going to do that again. And I didn’t know they wouldn’t take a partial payment.”

While most respondents who made late payments acknowledged some level of personal responsibility and accepted minor financial penalties for late payment, they nevertheless described lenders' practices and policies regarding late payment as being inflexible and opaque. In fact, only two foreclosure respondents challenged the lender's decision to impose penalties for late payment. Lenders essentially made negotiations concerning repayment schedules or allowances for contingencies and outstanding circumstances unreasonable for borrowers.

Half of the foreclosure respondents acknowledged that the lender or loan servicing agency offered help that would allow them to resume payments on their mortgage following a default. For example, one respondent described how the lender allowed her to plead hardship in order to restructure the terms of her mortgage loan:

“They sent me a whole packet of things...its called a hardship, which required a lot of data—checking accounts, two year’s tax information, hardship letter, proof of hardship. Actually I sent everything to them. I guess they’re missing one thing. I just got a letter...that said they just need one more piece of information and then they’re going to consider that.”

Later in our interview the same respondent, however, claimed that the lender's offer of help lacked clear instructions and that the lender failed to follow through or was difficult to reach by phone. As a result the respondent was left in a “constant stress of limbo.” Under similar circumstances another respondent was offered a “prepayment plan” by a loan servicing agency only to find out later that she did not qualify:

“They take down the information of all your debt that you pay out every month, and then they calculate it. And they did all of that and then they told me that I have too much debt so they can’t help me. They did nothing.”

For half of the foreclosure respondents bankruptcy represented an alternate means for managing their financial insolvency, including mortgage default. One respondent filed for bankruptcy in order to put a halt to an interest rate hike that nearly doubled her monthly mortgage payment since the time of her loan origination in 2005. Another respondent believed that her bankruptcy status would help to head off future mortgage-related financial difficulties:

“From what I’m picking up the [mortgage company] won’t do anything until after you’re at least three months behind on your mortgage. And...by that time, they’ll send out your foreclosure notice or whatever. Then right behind it, because I’m in bankruptcy, I filed bankruptcy, I guess the bankruptcy court or lawyers’ offices can pick up what’s in the computers. By me filing bankruptcy they’ll send out law offices notices for help here or help over there. But as far as the mortgage company offering help, no.”

By declaring bankruptcy, other borrowers were able to distance themselves from the stress of negotiating with their mortgage lender, and creditors more generally, over the terms of repayment. For example, an elderly African American male respondent relied on an attorney in a Chapter 13 bankruptcy proceeding to renegotiate the terms of an unaffordable adjustable-rate mortgage. As part of his bankruptcy settlement, the respondent received a restructured fixed-rate mortgage loan that would allow him to maintain possession of his home.

Despite attempts to stay current with regularly scheduled mortgage payments, four foreclosure respondents stopped making payments and effectively defaulted on their remaining mortgage obligations without hope of salvaging their stake in homeownership. For most of these respondents the final stages of their foreclosure experience were characterized by a subdued resignation, that is, an ambivalent outlook surrounding issues of liability and recourse, and the causes and consequences of their experiences. All of these respondents had transitioned or planned to transition into living arrangements with friends or family, or into sponsored programs

such as Section 8 or assisted living facilities for the elderly. Several respondents were unsure if the bank had actually taken possession of their foreclosed property as they had not received any formal notification from the lender.

Conclusion

We learned a great deal about foreclosure and about gathering respondents to interview about foreclosure. Substantively, we learned the following:

- Our foreclosure respondents were willing to make financial and personal sacrifices in order to keep their homes but lenders were often unwilling to make concessions that conform to borrower needs;
- Borrowers were willing to accept responsibility for late payments and agreed that small fees and penalties were appropriate. However, they perceived foreclosure or mortgage default as an extreme penalty which robbed them the ability to negotiate new terms;
- For many respondents bankruptcy represented a major form of self-help;
- Respondents had little closure with regard to their property and approached their transition to new living arrangements with uncertainty.

Practically, we learned that people are not eager to talk about their experiences with foreclosure. Our data collection process was complicated because we were attempting to interview individuals who were experiencing the effects of a difficult process. Moreover, this is a hard to reach population and we did not fully anticipate the difficulty in collecting our sample. One key insight from our work is a need to re-think recruitment for a follow-up study that would include tangible incentives to encourage participation. This hard won expertise related to the realities of recruiting a difficult to reach population should help us; this level of effort and attention to detail in subject recruiting will matter to reviewers as we seek external funding.

Table 1. Descriptive Statistics.

Variables	Foreclosure (n=10)	Non-Foreclosure (n=10)
Age (median years)	46	41
Gender		
Men	10%	30%
Women	90%	70%
Race/Ethnicity		
Black/African American	60%	10%
White/European American	30%	60%
Hispanic/Latino	----	10%
Other	10%	20%
Marital Status		
Married	40%	40%
Divorced	20%	30%
Widowed	10%	20%
Never Married	30%	10%
Highest Degree Obtained		
GED	10%	----
High School	20%	10%
Associates Degree	10%	----
Bachelor's Degree	10%	50%
Master's Degree	30%	30%
PhD or other Prof Degree	----	10%
Other	20%	----
Income (median dollars)		
Salary/Wages	\$19,000	\$28,500
Total Family Income	\$21,500	\$51,500
Currently Employed		
Yes	50%	50%
No	50%	50%
Occupation		
	Production Worker	Attorney
	Sales Associate	Executive Director
	Social Work	Legislative Assistant
	Teacher	Office Manager
	Technician	Program Coordinator

Table 2. Housing and Homeownership Characteristics.

Variables	Foreclosure (n=10)	Non-Foreclosure (n=10)
First-time Mortgage Borrower ("Yes")	100%	50%
Mortgage Amount (median dollars)	\$44,000	\$29,700
Mortgage Payment (median dollars per month)	\$597	\$346
Interest Rate Type		
Fixed	70%	90%
Adjustable	30%	10%
Period of Mortgage Origination (2000-present)	60%	80%
Loan Purpose		
Purchase	70%	40%
Refinance	20%	20%
Other	10%	40%
Interest Rate % (median)	8%	7.5%
Mortgage Loan Term		
15 year	10%	20%
30 year	80%	40%
Other	10%	40%

Table 3. Personal Financial and Debt Characteristics.

Variables	Foreclosure (n=10)	Non-Foreclosure (n=10)
Problems Qualifying for Loan		
Yes	20%	10%
No	80%	80%
Other	----	10%
Good Credit (at origination)		
Yes	60%	60%
No	30%	30%
Other	10%	10%
Other Debt (“Yes”)		
Origination (median amount dollars)	80% \$7,500	90% \$29,500
Current (median amount dollars)	60% \$20,075	90% \$22,500
Bankruptcy		
Yes	50%	10%
No	50%	70%
Other	----	20%
Personal Savings		
Yes	10%	40%
No	90%	60%

Table 4. Pathways into Foreclosure and/or Mortgage-Related Financial Strain.

Variables	Foreclosure (n=10)	Non-Foreclosure (n=10)
Unemployment	40%	80%
Physical Health Conditions	70%	70%
Increased Debt Load	70%	60%
Increased Utility Costs	70%	80%
Lender's Actions	60%	----
