

Massachusetts Foreclosed Properties Task Force:
A Report on Its Accomplishments, Recommendations for Next Steps
and Lessons for Addressing Future Crises

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Executive Summary

In late January 2008, the Urban Land Institute (ULI) and the Massachusetts Association of Community Development Corporations (MACDC) invited nonprofits, public agencies, lenders and others to a roundtable discussion on the rising number of foreclosed properties and their impact on neighborhood stability. From the discussion emerged an urgent sense that vulnerable communities across the commonwealth risked losing the revitalization ground won over the past 30 years. Attendees were concerned about the lack of knowledge, resources and policy responses and those trying to address the problem locally felt stymied on multiple fronts (how to fund acquisition, how to address repair needs, etc.). The compelling nature of the problem spurred participants to commit to create a broad based task force to address these multiple concerns with the goal of developing a comprehensive programmatic response within six months.

A small group met in early February to create the Foreclosed Properties Task Force and asked Citizens' Housing and Planning Association (CHAPA), a statewide housing advocacy group, to join the effort.

The Task Force founders made two key decisions upfront. One was that the Task Force should focus on creating products useful to communities already working on foreclosed property strategies. The second was to enlist broad cross-sector participation, recognizing that effective solutions would require the involvement of people from a wide range of disciplines. They invited municipal staff, non- and for-profit developers, advocates, lenders, state and quasi-public agencies, attorneys and academics to join the Task Force (over 95 organizations and 185 individuals ultimately attended meetings). To ensure that the Task Force produced timely and workable results, they adopted a "design-do-redesign" approach to program development, enlisting communities with efforts underway to identify needs and test and inform new initiatives.

The Task Force decided to use subcommittees so that it could work on multiple issues simultaneously. A steering committee created the subcommittees and their charges, structured the work, and managed policy decisions. The subcommittees reported to the full Task Force about every six weeks to coordinate issues and address overarching concerns that did not neatly fall within the charge of any single subcommittee. Critical funding from The Boston Foundation (TBF), the Massachusetts Housing Partnership (MHP) and MassHousing allowed the Task Force to obtain help to coordinate its activities and to engage a team of consultants to assist with technical research and policy development.

The Task Force made important progress on its six-month goals. As a result of its work:

- A \$20 million revolving loan fund was created to finance the acquisition and holding of foreclosed properties in highly impacted neighborhoods using private lender and foundation money and the State committed \$60,000 per unit in additional rehabilitation funding. Funds became available in August 2008.
- Grants were obtained (from Living Cities and Fannie Mae) to support the capacity of local groups to implement responses in the test communities and eventually other cities.
- A web-based foreclosure clearinghouse has been launched with extensive information on local, state and federal initiatives and resources and a statewide database of foreclosed and at risk properties (with detailed property information, mapping and query functions) that will become operational in October 2008.

- Guidelines for planning stabilization strategies have been developed, along with models for a municipal code enforcement and receivership program and for acquiring, holding and selling properties to responsible buyers.
- A model has been developed to help counseling agencies and nonprofits locate foreclosure-trained brokers to facilitate short sales and sales of REO properties.

All of these accomplishments leave Massachusetts better positioned to begin using new federal Neighborhood Stabilization Act funds this Fall. It also leaves it more knowledgeable about obstacles and challenges that need further work.

Major challenges remain to be addressed by the next stage of more targeted work on foreclosed properties – most notably getting access to lenders/servicers in order to negotiate acquisitions at a fair price –and proposed federal actions to address troubled mortgage security portfolios add uncertainty about how this issue will be resolved.

- Communities have spent weeks trying to identify mortgage holders, lenders and REO contacts for properties and when successful have generally been unable to reach agreement on a sale price due to unrealistic lender estimates of the current value of properties after adjusting for rehabilitation needs. As a result, despite sustained efforts, a Task Force survey in early September found that that the test cities had only purchased 14 buildings (36 units) as of early September. *If access and price issues are not resolved, it will be very difficult to use the new federal funds for acquisition since the bill limits use to properties bought below current appraised value considering condition.* These barriers have also delayed testing of some Task Force program models.
- Funding gaps still exist for code enforcement and receivership programs that could enable cities to deal with problem properties more quickly, and for grants or equity funding when nonprofits need to acquire distressed properties in weak market areas where values cannot support new debt for necessary rehabilitation costs. Hopefully, HUD's new Neighborhood Stabilization program will help close some of the gap.

Despite these challenges, almost all (96%) of 31 Task Force participants who responded to a survey said that the Task Force produced useful results and over half expect to use the acquisition fund, database and redevelopment/rehabilitation models. Almost all (93%) felt the Task Force approach (cross-sector participation, performance-driven goals, test communities), is a useful model for future responses to policy crises.

Participants interviewed by phone reported other important benefits as well. They consistently described Task Force and subcommittee meetings as invaluable resources for information sharing and learning as well as energizing because participants were highly motivated and willing to work. Several noted the value added by private sector participants, including property management firms, developers and attorneys. Test communities reported that the collaboration helped bring their programs to the next level and increased their access to funding.

The following pages describe the Task Force structure and its decision-making process and summarize the tasks and key accomplishments of the five subcommittees. In order to keep the main report short, we have put most of the detailed information on the Task Force structure and process (notices and meeting minutes) and its final products (loan funds, financial and program models) in Appendices.

TASK FORCE BACKGROUND AND OPERATIONS

The Foreclosed Properties Task Force structured itself to respond quickly and comprehensively to a policy crisis, by:

- Obtaining upfront funding and in-kind support from several organizations to support staff and technical consultants
- Defining its customer upfront (communities with neighborhoods hard hit by foreclosures who wanted to address the problem)
- Deciding upfront to build on efforts underway, using “test communities”
- Enlisting involvement from all sectors from the start
- Setting a limited life for the Task Force (6 months), with the goal of having its work taken over by a range of entities
- Recognizing that participants had limited time to devote to meetings

Initial Planning for the Task Force As noted above, the decision to create a Task Force emerged at a forum convened in late January by the Urban Land Institute (ULI) and the Massachusetts Association of Community Development Corporations (MACDC) to bring together the nonprofit, private and public sectors to discuss the emerging problem of foreclosed properties in hard-hit neighborhoods. The forum tapped a growing sense of urgent need to address the mounting number of foreclosed properties in many vulnerable communities. Policy makers and practitioners alike were stymied by the lack of appropriate resources, policies and indeed by a clear understanding of how to tackle the problem. The shared desire to focus on creating solutions led to the almost spontaneous creation of the Foreclosed Properties Task Force.

Two of the attendees were charged by the group present at the ULI/MACDC forum to determine the “next steps”. These individuals took the lead in creating the Task Force and became its co-chairs. One was the director of a nonprofit in a city hard hit by foreclosures (Chelsea) and already trying to develop a mitigation strategy. She was also the president of the board of a statewide nonprofit advocacy group (CHAPA) that had long experience working on policy issues with all sectors of the housing community. The other was the deputy director and general counsel of the Massachusetts Housing Partnership (MHP), a quasi-public state agency that promotes affordable housing and provides technical assistance and financing using private bank funds.

The chairs held a start-up meeting in early February to establish Task Force goals and an organizational structure. They agreed that the Task Force should be time limited and focus on producing items that were useful to and usable by localities, including Chelsea, that were already trying to address foreclosed properties and developed a mission statement:

to create “a network of programs, policies, products and best practices to enable local entities to implement local strategies to promote neighborhood stabilization and minimize displacement of existing occupants through the sound disposition of properties that are in foreclosure or at-risk of foreclosure.”

Timetables The founders decided on a six month time frame to achieve their mission and find appropriate entities to take on long term responsibility for sustaining the programs, policies and products that came out of Task Force efforts. The chairs understood that the problem would not be solved in six months but wanted to use the Task Force to coordinate work in this area without creating a whole new entity.

Steering Committee To address a complex set of issues in a short period of time, they created five subcommittees to focus on specific issues (funding, acquisition strategies, etc.) as well as a smaller Steering Committee to oversee Task Force efforts. MHP, TBF and MassHousing offered funding for

the Task Force, a clear recognition that the group was addressing a widely felt need. The funding allowed the steering committee to hire consultants to support the Task Force. The composition of the steering committee was fluid. It included a core group of four individuals - the co-chairs, the executive director of MACDC, and a consultant who served as staff to the Task Force and Subcommittees. They were later joined by CHAPA's executive director and a CHAPA senior program manager.

Customer ("test community") driven To ensure that the Task Force produced workable outcomes that complemented existing resources and addressed gaps, the steering committee reached out to municipal staff and/or nonprofits in cities that were already engaged in finding a solution to foreclosed properties. Six (Boston, Brockton, Chelsea, Lawrence, Springfield/Western Massachusetts, Worcester) volunteered to serve as informants "on the ground" who could help the Task Force define the neighborhood stabilization problem (and its local variations) and test its responses. Profiles of these communities and their needs were posted on the Task Force website (see Appendix 7)

Cross Sector: The chairs announced the formation of the Task Force in late February in a notice to foundations, advocacy groups, state and quasi-public agencies, for- and non-profit developers, consultants and municipal officials, and invited them to participate in a meeting the following week (March 4). The notice described the Task Force goals, the subcommittee charges, contact information for subcommittee chairs, the dates of preliminary subcommittee meetings and future Task Force meeting dates (Appendix 1).

Meetings/communications: To minimize time claims on participants, the Task Force committed to hold a limited number of meetings and to keep them to two hours. The full Task Force met every 6-8 weeks over 6 months, with meetings open to all interested parties (attendance ranged from 50 to 70 persons per meeting). The subcommittees set their own schedules. The steering committee checked in weekly by phone.

Staffing/Virtual Office TBF, MHP and MassHousing funding enabled the Task Force to set up a "virtual office", hiring a consultant to staff its activities and create and manage a Task Force website, called Project Center. The consultant also served as a day to day resource for Task Force participants and technical consultants. The Project Center website enabled Task Force participants at all levels of involvement (staff, consultants, chairs and individuals who attended just one or two Task Force meetings), to post minutes, draft work products, studies, contact information, descriptions of programs in other places, legislation, financial models, etc. and get feedback. Over 130 people visited the website at least once.

Consultant and In-Kind Support The TBF, MHP and MassHousing funding also enabled the Task Force to hire consultants to assist the Steering Committee and Subcommittees with technical tasks including project management, financial modeling, legal research, grant writing and development of a foreclosed properties database/information clearing house. MHP and CHAPA staff were also essential to advancing the work of the Steering committee and subcommittees (as members or chairs), as they were able to mesh that work with their regular responsibilities.

Subcommittees The Task Force founders created five subcommittees to address specific areas of concern, specified their charges and recruited chairs. They recognized that many of the charges were inter-related and encouraged subcommittees to collaborate as needed. As new focus areas emerged (receivership, code enforcement, tenant displacement) subgroups formed to address them.

Funding – Identify an interest-free or low-interest, patient and readily accessible pool of funds for the acquisition of properties that are in foreclosure or at risk of foreclosure.

Acquisition – Identify strategies to acquire properties in foreclosure or at risk including:

- a clearinghouse to broker relationships with servicers/lenders/owners;
- models of acquisition (i.e. loan portfolio acquisitions or standardized short sales); and
- best practices for efficient purchases (i.e. bring to scale the acquisition of small properties).

Holding Period – Identify

- the costs of holding properties,
- management models that address issues such as obtaining insurance, performing emergency repairs, minimizing displacement of occupants, obtaining local code and tax relief, and
- strategies for achieving economies of scale (i.e. production network/aggregation opportunities).

Exit Strategies –

- model best practices to develop foreclosed properties as affordable or mixed-income homeownership developments, bundled rental projects, or to demolish blighting buildings as part of revitalization plan;
- identify barriers and proposed solutions (e.g., suspending the low-income housing tax credit “10-year rule” to facilitate including acquisition in basis of tax credit deals).

Matching Properties and Homebuyers – Develop a model for non-profits who wish to facilitate the transfer of properties from foreclosing lenders to new homeowners.

Program and Policy Development Process

Most of the program and policy development work took place between late February and August, using a process under which subcommittees worked on their individual charges, consulted with the Steering Committee as needed and presented proposals and updates and received feedback at each full Task Force meeting.

Four of the five subcommittees held preliminary meetings in advance of the first full Task Force meeting in early March to discuss basic issues related to their charges. The kick-off meeting of the full Task Force then provided a forum to discuss goals, approaches (test communities, design-do, Project Center website) and the initial thinking of the subcommittees. A second one-time four hour “planning session” followed on March 25 to refine goals and approaches and hear what the test communities were doing and the products they would find most helpful. Subcommittees also reported on their progress and discussed next steps with the Task Force (Appendix 1). Over the next four months, subcommittees pursued their charges.

All five committees followed similar procedures – analyzing their charge and breaking down the problem, often with matrices, identifying items that needed research and working with consultant support to develop models and practices. They used the Steering Committee and full Task Force meetings to refine their work and address unanticipated problems.

The following pages describe the work of the subcommittees and their accomplishments.

SUBCOMMITTEE OUTCOMES

FUNDING SUBCOMMITTEE

This subcommittee's charge was *to identify a no- or low-interest, "patient and readily accessible pool of funds" to acquire at-risk or foreclosed properties.*

The Funding Subcommittee began work by consulting with cities and nonprofits that had immediate funding needs and were poised to acquire properties. Several were using limited pots of money to start (Boston was using inclusionary zoning payments, Lawrence received a special legislative allocation, and Chelsea had a NeighborWorks line of credit) but needed more to cover holding period and rehabilitation costs.

Based on these discussions, it concluded that an ideal funding program would:

- provide readily available acquisition funds for market opportunities including auctions,
- provide funding for holding period costs (the 6 months-3 years until property is rehabilitated and re-sold or rented up) and subsidies for rehabilitation
- target acquisitions that are part of a larger neighborhood strategy and are supported by municipal contributions
- be able to offer large enough loans to accommodate the preference of some cities to buy properties in bulk (though this is unlikely to occur unless they are able to build relationships with servicers for large players in the market and get agreement on discount prices.)
- be able to accommodate a variety of lending situations, as customers will vary in terms of funding needs (acquisition, holding, rehabilitation), exit strategies and financial strength
- be available for use with occupied as well as vacant properties (income can help with carrying costs)
- ensure that if State funds are used, the State agrees to provide a set-aside amount available on rolling basis (rather than the usual semi-annual funding rounds)

It then reviewed possible funding sources, examining whether any existing programs could be modified to meet short term needs and whether new programs were needed. Based on timing, availability and recourse considerations, it identified the most promising sources as MHP (unsecured working capital letters of credit), the State (reallocation of existing funds, including HOME) and foundations through project related investments [PRIs] in the form of loans or loan guarantees. It decided that the best way to meet the many funding purposes was to establish a single funding pool. After considering a decentralized model to get the benefits of using lenders located in and knowledgeable about the target neighborhoods, it concluded that a Fund managed by a single entity that could handle underwriting and servicing would be more efficient.

Feedback at March Task Force meetings clarified the need to relate acquisition funding to holding period and takeout strategies and led the Funding Subcommittee to conclude that it would be important for providers of final takeout subsidies to be able to offer funding reservations in advance so purchasers could access acquisition and holding funds. Discussion with the Task Force also highlighted the need to provide some non-recourse funding while recognizing that it would be impossible to create a funding pool that consisted entirely of at-risk funds (Appendix 1). The Subcommittee began talking with the State about their willingness to participate in funding the pool.

At its longer March planning meeting, Task Force members discussed pursuing foundation funding because it could be provided on more flexible terms than private regulated lenders can offer. A member from The Boston Foundation (TBF) advised that a consortium of foundations called Living Cities, Inc. and based in New York was interested in funding pilot initiatives to mitigate the effects of concentrated foreclosures in urban neighborhoods. Although the deadline for initial submissions had passed, members decided that the Task Force should apply if Living Cities would allow a late submission. It decided that a joint application for several cities through the Task Force, rather than individual applications, would be more effective and ensure a unified voice when discussing possible uses of funds.

Late March and early April produced a wave of activity. Cognizant of the need to move quickly, the Funding subcommittee asked the Massachusetts Housing Investment Corporation (MHIC) - a *private* non-profit affordable housing lender that had been set up in 1990 by a consortium of private lenders to help meet CRA obligations - if it would be willing to serve as the manager for the acquisition/holding fund. MHIC had the expertise and capacity to establish and manage such a Fund and is also a Community Development Finance Intermediary (CDFI).

MHIC agreed to accept the role and worked with the subcommittee to establish a draft program model and help line up financing. The draft called for two linked funding pools and set a combined capitalization goal of \$20 million:

- an acquisition pool would provide a very flexible, low oversight revolving line of credit of \$250,000 to \$1 million per organization, *full recourse*, with an interest rate in the low to mid-5% range and credit made on the strength of the borrower, their plan and team; and
- A holding pool would provide funds for light to moderate rehab with risk shared between borrower and pool participants, *secured by properties with limited recourse*.
- Projects could move from the acquisition pool to holding pool once financial commitments for take out were arranged. Banks, the State, foundations and municipalities could participate through a variety of possible mechanisms (e.g. funds to buy down holding pool interest, rehabilitation grants).

Creation of the fund got a big boost when MHP and MHIC agreed to each commit \$8.5 million in private lender funds, after several other potential sources proved too expensive (e.g. a Fannie Mae program, some foundation PRIs, a life insurance company consortium). That led the State to announce that a \$20 million fund - called the Neighborhood Stabilization Loan Fund - was being created, along with its commitment to fund a loan loss reserve and set aside funds from existing programs for rehabilitation funding at \$60,000 per unit (much more than it had previously agreed to discuss). Several foundations also committed to provide funds.

The Task Force, with the help of TBF and a Task Force grant-writing consultant, also submitted a grant application to Living Cities in mid-April. The application described the Task Force's work, and the new \$20 million fund and requested \$750,000 in grant funds (to be administered by MHIC) to help three test communities carry out specific acquisition initiatives using models and cost estimates the Task Force had begun fleshing out. The application also requested \$1.5 million in flexible capital for the Neighborhood Stabilization Fund. The Subcommittee also submitted a request to Fannie Mae's area representative, who was also participating in the Task Force, for grant funds to help other cities. The Funding Subcommittee decided to stop meeting at the end of May, as the Task Force's recommendations for the structure and terms of the Neighborhood Stabilization Loan Fund had been accepted, implementation had been turned over MHIC and it had heard that it would be receiving grants from Living Cities and Fannie Mae.

Outcomes:

1. Acquisition, Holding and Rehabilitation Fund In April 2008, the Governor announced the establishment of a \$20 million revolving loan pool and by June, the financial details were fleshed out using the terms recommended by the Task Force. The first funds are targeted to specific communities that have identified properties and a neighborhood strategy (See Appendix 2). The fund is expected to finance the acquisition and rehabilitation of 250-500 units, using a revolving loan pool. Additional units will be assisted as properties move through the disposition and resale process. Funding became available August 1. At the same time, the State agreed to set aside to \$60,000 per unit in state bond bill funds under a program called the Housing Stabilization Fund (HSF) for properties financed by the pool, without going through funding rounds.

Due to the ongoing challenges cities and nonprofits have faced in trying to acquire properties, MHIC had received only one formal loan application as of late September. However, MHIC has received numerous inquiries and expects to receive additional applications soon. Acquisition to date has been financed by earlier, less expensive funding and new grants (see below) to the test communities.

2. Living Cities Grant and Fannie Mae Grants Living Cities, Inc. awarded a \$500,000 grant to support pilot programs for foreclosed properties in three cities (Boston, Chelsea and Lawrence). The Task Force initiative was the only multi-city project funded. Fannie Mae also awarded \$120,000 to MHIC for use in other hard-hit cities.

Open Challenges: As noted above, a number of funding challenges remain, including ways to raise equity and fund receivers and code enforcement and help non-profits who take on debt to maintain balance sheet requirements. The Task Force also recognizes that it may need to rethink the funding design once HUD rules and grant amounts become known under the new federal Neighborhood Stabilization program.

ACQUISITION SUBCOMMITTEE

This subcommittee's *charge* was to create tools and strategies for acquiring at-risk or foreclosed properties, including:

- a clearinghouse to broker relationships with services, lenders and owners and make information available to all participants in the neighborhood stabilization effort
- acquisition models (e.g. loan portfolio acquisitions, standardized short sales), and best practices for efficient purchases (i.e. bring to scale the acquisition of small properties)

This work ultimately proceeded on two tracks.

Acquisition The subcommittee first met in late February to discuss acquisition goals and priorities. Given the twin goals of preventing displacement and reclaiming vacant properties, it discussed whether certain building types should receive priority (occupied vs. vacant, single family vs. multifamily). It noted the potentially higher cost of rehabilitating occupied properties, due to relocation requirements as well as the benefits of a revenue stream during the holding period. It recommended that the Task Force focus on properties for which there was little or no private market demand and leave the decisions regarding building type priorities to local entities. It agreed that the acquisition fund and state policy should be designed to work for both occupied and vacant properties and should not give preference to either.

The Subcommittee also agreed that it needed to research (1) the nuts and bolts of short sales and REO acquisitions, (2) approaches used in other communities and (3) local practices (i.e. successful examples and information on with whom to negotiate). It also decided to outline a bulk acquisition model, despite the uncertainties regarding access to lenders and funding.

At the March meetings with the full Task Force, participants discussed the need to be strategic in looking at acquisitions, understanding how the market is functioning, recognizing the role of entrepreneurs and small private developers who are likely to be interested in acquiring less distressed properties. They also discussed the use of nuisance ordinances in some communities to try to control blight and facilitating short sales as a potential early intervention. The subcommittee chair discussed funding constraints and the importance of getting price reductions on the lender side. Task Force members and test communities agreed strongly that a clearinghouse approach to working with lenders was important, ideally enabling a wholesale rather than retail approach to lenders that would create a faster, more efficient acquisition process.

The Acquisition Subcommittee discussed ideal elements for an acquisition model and began work on models for acquiring properties pre- and post-foreclosure. By early April, however, the test communities who had already been trying to acquire properties were reporting no progress, due to the difficulty in establishing contact with servicers authorized to negotiate and in agreeing on property values. Task Force participants put together a detailed memo documenting these difficulties and asked the state's Congressional delegation help arrange meetings with top foreclosing servicers. In June, as the difficulty continued, a subcommittee consultant was hired to interview the test communities and develop a uniform set of requests of lenders and servicers (lists of effective contact people, an understanding regarding realistic pricing, lists of properties by communities, ability to negotiate "bulk sales" scattered site in multiple communities). The Task Force reviewed the memo in July and several Task Force members also agreed to meet separately to discuss other strategies to put pressure on lenders, including use of the press.

Members of the Acquisition and Exit Strategies Subcommittees also met with tenant advocates and legal services groups to discuss steps the Task Force could take to minimize tenant displacement from foreclosed and at-risk properties.

Outcomes

Web-Based Clearinghouse When the Task Force began, CHAPA had already begun collecting information on foreclosures and foreclosed properties resources and initiatives in Massachusetts and across the country. That initial work was funded by a grant from The Boston Foundation, with the goal of creating a website that could be updated on a regular basis. The subcommittee explored broadening the CHAPA clearinghouse by adding a foreclosed properties database and servicer/lender contact information, with the goal of creating a single site where lenders, servicers and potential acquirers could exchange information. Difficulties in establishing lender and servicer contacts led the Task Force to drop that element, but the resources and initiatives part of the website was launched in September, as part of CHAPA's new website, with a target audience of local practitioners, including municipal officials, community groups, developers, and others.

Foreclosed Properties Database The foreclosed properties database is scheduled to launch in October funded in part by the Task Force, Boston Community Capital and subscriber fees. A Task Force member from the Federal Reserve Bank of Boston facilitated the database development by convening a subgroup to analyze data sources and mapping programs. The subcommittee and CHAPA hired a website/database designer and arranged to purchase data from a private company (The Warren Group) that tracks real estate transactions in New England. Subscribers will have access to detailed data on foreclosure petitions, auctions and REO properties, as well as tax lien and adjustable-rate loan data. Users will be able to search properties, create and save searches and enter additional fields.

Agreements with Servicers/Lenders The Task Force has been unable to obtain streamlined access to lenders and servicers. The few acquisitions by test communities that occurred primarily resulted from applying political pressure locally (in Boston, for example, the Mayor of Boston was able to get contact information for top executives at the largest servicing companies) or using buyer brokers. All of the test communities reported that acquisitions took months of effort, including long delays waiting for lenders to clear titles in a few cases. Most have been outbid for other properties and/or are still waiting to hear back on offers made months ago and most believe there is a big gap between true market value (in light of rehabilitation needs) and what lenders will accept.

The Task Force will continue to work on this issue. It has developed a list of requests and has sought meetings with the largest servicers/lenders in Massachusetts to discuss ways to facilitate the sale of properties to responsible owners and to get commitments from them to:

- Provide an effective contact person who can get local groups access to inspect properties and who can expeditiously negotiate acquisitions
- Sell properties quickly to credible nonprofits and local government agencies at prices consistent with their current fair market value and condition
- Disseminate information on their REO properties in specific communities, including both those on which a notice of foreclosure has been sent and those which are foreclosed
- Investigate bulk sale opportunities (for properties in the target communities)
- To the great extent practicable, agree to allow tenants to remain in small-multifamily buildings going through foreclosure.

Standardizing acquisition models The subcommittee researched models for loan portfolio and standardized short sales and best practices to bring these to scale efficiently and the steps required to negotiate short sales and use REO gifting programs. However, the acquisition contact and pricing issues have frustrated efforts to test and refine standardized models.

- *Short Sales* Information on short sales activity, the steps involved and local procedures was posted on the Task Force website in March. A more detailed procedural memo, with recommended forms and sample letters, was posted in May (see Appendix 3).
- *REO Sales* Research on lender practices was posted. However, the ongoing challenges of finding and working with lenders described above prevented development of a model.
- *Bulk Portfolio Acquisitions* The bulk portfolio strategy has so far proved less promising than initially envisioned due to a general lack of concentrated ownership in individual neighborhoods or communities (that is, properties tend to be owned by many different institutions) and the fact that even where several properties were owned by one lender, many may not be good candidates for acquisition (e.g. single condominium units, properties attractive to other buyers). To date, in cases where a bulk sale was considered, the pricing for the portfolio was far in excess of a reasonable estimate of value. The Task Force continues to believe that this is a viable strategy, but not until there is sufficient decline in the asking price to make the all in costs of acquisition and disposition justifiable. It is also exploring whether bulk sales can be negotiated regionally.

Best Practices The Subcommittee identified several practices to support acquisition and anti-displacement efforts, with the assistance of its consultant (Viva Consulting) and posted how-to information on its website.

- *Understanding and Managing Acquisition Challenges* A July memo provides guidance for cities and nonprofits trying to design an acquisition strategy, based on interviews with experienced nonprofits and municipalities. It lays out cost parameters, identifies the challenges local entities must consider in developing an acquisition and rehabilitation strategy and identifies the issues inherent in small moderate rehabilitation projects that funders should address to ensure new funding programs are workable and efficient (e.g. acceptable rehabilitation standards and work scope documentation, navigating wage requirements, lowering construction oversight fees, etc.).
- *Use of Municipal Health and Safety Enforcement Codes to Stabilize Properties, Discourage Bottom Feeders* Based on reports from the test communities and research, the subcommittee concluded that aggressive inspection and code enforcement by municipal agencies can help insure properties are maintained, discourage purchases by investors who do not intend to make needed repairs (and therefore might pay more upfront, distorting sale prices) and make it costly for lenders to continue to hold properties. It found that local efforts are often constrained by limited municipal funding. It posted information on the Task Force website on programs and legislation in the test communities as well in other cities and states under which localities maintain foreclosed and abandoned properties, impose fines and liens on their owners to cover those costs and (in some places) require all owners of foreclosed or abandoned properties to register with locality and post contact information at the property.
- *Minimizing Tenant Displacement* In addition to asking lenders to maintain tenancies in foreclosed multi-family properties, some Task Force members agreed to support proposed legislation that would only allow evictions of tenants in foreclosed properties for “just cause” (i.e. nonpayment or other lease violations) and to support policies that promote:
 - outreach to tenants in at-risk and foreclosed properties, through mailings and flyers that advise them of their legal rights and provide contact information for further assistance
 - programs to provide legal assistance to at-risk tenants

- municipal code enforcement efforts for foreclosed properties, including receivership, and
- appropriate funding policies for occupied properties, including funding for interim repairs using flexible rehabilitation standards.

It also posted information on Boston and Springfield programs using flyers (Appendix 3) to get information about foreclosure programs and options to homeowners, residents concerned about blight and tenants in at-risk or foreclosed properties. Springfield distributed 10,000 doorhangers in August but no large spikes in calls have been reported by the City (neighbors), Foreclosure Center (homeowners) or Western Mass Legal Services (tenants) to date.

HOLDING PERIOD SUBCOMMITTEE

The Holding Subcommittee's *charge* was to identify the costs of holding properties and ways to handle key management challenges (e.g. obtaining insurance, making emergency repairs, minimizing displacement of occupants, and getting local code and tax relief). They were also asked to examine strategies to achieve economies of scale (e.g. production network/aggregation opportunities).

At its first meeting, it quickly determined that the first step an agency has to consider when evaluating a property is whether to use receivership or acquisition. After discussing the differences between these approaches and their pros and cons (see Appendix 4), it agreed that the two approaches did not require separate holding cost analyses and that it should focus on creating a cost analysis tool that could be used to guide any intervention and exit strategy. At the same time, based on input from the test communities, it decided to research receivership models more fully, and as well as options for local property tax relief and ways to hold lenders accountable for the conditions of properties. The Task Force also suggested exploring pre-qualifying property managers and setting up joint ventures between CDCs and private managers.

The subcommittee began its cost analysis by developing a matrix (Appendix 4) to break down major cost elements (initial assessment, insurance, emergency repairs, holding period repairs, property tax relief, etc.) and related management strategies and agreed on steps needed to begin analysis, including the use of cost data and tools from the test communities and a review of recent studies on managing distressed housing in Massachusetts (see Appendix).

By April, it had developed and posted a checklist for emergency repairs for use in assessing potential acquisition or receivership properties. Between March and July, it obtained audit data from MassHousing and MHP on over 600 properties funded under other programs, including earlier Boston programs to acquire, rehabilitate and sell abandoned 1-4 unit residential properties. Two members from private property management firms took the lead in reviewing the data and developing holding period cost models for a range of locations and situations. The modeling made it clear that property taxes and vacant building insurance are major costs. The subcommittee used that information to obtain pro bono legal research to investigate ways to obtain property tax relief on acquisition and during the holding period. It recommended that the Task Force investigate ways to reduce vacant building insurance requirements and/or lower the cost of the requirements.

Outcomes

Holding Cost Models The Subcommittee developed cost models, based on location (six state regions) in Excel that users can adapt for their own projects. The model used 2007 audit data from 600 MHFA and MHP properties that shows the impact of each cost element on total costs and provides adjustment factors for property distress and occupancy status (Appendix 4).

Emergency Repair checklist The subcommittee developed a checklist for emergency repairs for cities and non-profits to use to assess properties pre- or post-acquisition (Appendix 4).

Receivership models Working with other Task Force members, the Subcommittee helped Worcester refine its receivership program and helped Springfield establish one as well. A recent case confirmed that receivership can be used with vacant buildings and the Subcommittee obtained pro bono assistance from a law firm (underway now) to research other legal issues. It advised both cities that the State (DHCD) already has authority to use bond funds to fund a pilot receivership and the mayors of Springfield and Worcester submitted a joint request for \$1 million in June to

establish a revolving loan fund for that purpose. Task Force members also provided both cities with detailed financing and programmatic models (Appendix 4)

Property Tax Relief Research Modeling revealed that full property taxes represent 10% of holding period costs, leading it to research municipal authority to provide abatements or exemptions during the holding period. A law firm is conducting pro bono research (surveying assessors on current municipal abatement practices and whether special legislation is required/ recommended to enable municipalities to offer exemptions during the holding period) with a report expected in September.

Open Issues Funding for the receivership pilot has not yet been determined. Work to reduce the impact of current lender requirements regarding insurance on vacant buildings, perhaps by finding a way to pool risk, is still needed.

EXIT STRATEGIES SUBCOMMITTEE

This subcommittee's *charge* was to

- model best practices for developing foreclosed properties as affordable or mixed-income homeownership developments, bundled rental projects or demolition of blighting buildings as part of a revitalization plan; and
- identify exit strategy barriers and propose solutions (e.g. suspend 10-year LIHTC rule to facilitate inclusion of acquisition costs in basis of tax credit deals, land banking).

At its first meeting in early February, the subcommittee agreed that communities had to decide what their desired outcomes were before they could develop acquisition or exit strategies and that these outcome goals should then guide inventorying of properties (despite the difficulty of identifying at-risk properties in advance), feasibility assessments and creation of financing packages. It emphasized properties should not be acquired before intended long term disposition goals are identified and financial feasibility is assessed. It noted that much of its work would require collaboration with the other subcommittees. The subcommittee identified four potential long term exit strategies (development as affordable homeownership or affordable rental housing, demolition tied to redevelopment and open space preservation, or disposition to a responsible market owner).

After discussing the relationship between acquisition and exit strategies, they roughed out a matrix (Appendix 5) highlighting exit options for various types of properties and the barriers, issues and funding needs associated with each option. In subsequent meetings, the subcommittee developed a list of questions communities should consider and information they should collect when developing goals regarding foreclosed properties and planning acquisitions (or receivership), including trying to get an inventory of foreclosed properties in a given neighborhood and understanding the current and future market for various types of properties.

It also identified policy areas that needed exploration including availability of public resources for long-term stability and possibility creating an operating reserve pool for nonprofits to share the risk of operating shortfalls.

Outcomes:

Exit Strategy Planning Matrix showing path (interim control strategies and potential exit strategies and permanent funding needs) for three types of properties [single family, small scale multi-family (2-4 unit) buildings and larger (5-20 unit) multi-family buildings] (Appendix 5)

Pilot Receivership Model The Exit subcommittee chair helped Worcester and Springfield refine their receivership programs and put together a request for State funding (Appendix 4).

Bundled Rental Acquisition Financing Models Working with a consultant, the subcommittee examined costs and a range of financing options for scattered site rental production (acquiring and financing of multiple 2-4 unit buildings as a single project). It produced multiple financial models based on likely costs in three test communities (Brockton, Chelsea, Worcester) and examined how costs varied by funding scenario (no use of tax credits, use of 4% or 9% credits), building type (partially occupied needing moderate rehab or vacant and in deplorable condition) and project size (18 units in 6 buildings or 36 units in 12 buildings). Takeout subsidy needs ranged from \$45,000 to \$130,000 per unit depending on the scenario (Appendix 5), with much of the variation related to rental subsidy availability.

“Other Bond Resources” Program Proposal The models revealed that some projects would require more rehabilitation financing than the \$60,000 per unit the State has committed to provide. This led the subcommittee to propose a new state program – temporarily called “Other Bond Resources” - to make it easier to combine State housing bond funds with city and other resources, including 4% and 9% tax credits for larger projects. The subcommittee drafted a term sheet (Appendix 5) for this program to serve as a reference point for discussions with State housing staff in defining eligible projects, income targeting, rehabilitation standards, subsidy amounts, local match requirements and other components, and developing application procedures.

The Subcommittee developed more detailed program design recommendations, based on interviews with entities experienced in acquiring and rehabbing vacant and foreclosed properties. The recommendations are intended to ensure such a program will work efficiently for small scale moderate rehabilitation jobs and include items such as more flexible rehab standards, the waiver of certain oversight fees and more timely payment processing (Appendix 5). While discussions on these recommendations have not moved forward with the State, they are likely to prove helpful when the federal Neighborhood Stabilization Funds become available.

MATCHING PROPERTIES WITH HOMEBUYERS SUBCOMMITTEE

This subcommittee's *charge* was to develop an efficient model for nonprofit transfer of foreclosed properties to new homeowners.

At its first meetings with members and the full Task Force, it examined the challenges involved in trying match properties and buyers, including the difficulty of accessing REO, buyers remaining on the sidelines, tightening credit standards, neighborhood conditions and crime issues and funding issues due to property conditions, lack of subsidy funds and the disincentive posed by deed restrictions under current subsidy programs. It also noted the cost of managing disposition efforts and the need to identify or create funding sources for acquisition, rehabilitation and program administration (e.g. CDBG program income, CPA, HOME, HSF, weatherization).

The subcommittee then began talking to realtors and investigating what other cities in and outside Massachusetts were doing to facilitate sales and create buyer incentives. It learned that the Massachusetts Association of Realtors (MAR) had developed a training program (Loss Mitigation Certification) for brokers interested in working with delinquent homeowners and that some realtors and servicers had developed channels to discuss short sales and pricing based on current market analysis. It also determined that municipal and nonprofit foreclosure clinics generally provide information on short sales.

Based on discussions with the full Task Force at the March 25th planning meeting, it decided to investigate three program models (facilitated short sales using a realtor referral system, a rent-to-own program to help owners losing their home remain in place, and an incentive program to attract buyers to high-foreclosure neighborhoods). It used consultants to help develop the models.

It also agreed to support legislation CHAPA and other had filed to soften the deed restrictions imposed when state subsidies are used to promote homeownership, since many buyers shy away from them. The legislation (H. 4594) passed in May 2008 as part of a Housing Bond Bill that also authorized a set-aside of up to \$10 million under the State's Housing Stabilization Fund (HSF) program "to stabilize and promote reinvestment, through homeownership, in "weak market" areas (areas with a high concentration of assisted rental housing or low rate of homeownership or low median family income or low average sales prices or high levels of unpaid property taxes or vacant or abandoned buildings). The bill allows the State to modify program requirements as needed, and to cut the deed restriction term to 10 years (vs. 40) and raise the income limit (and thus allowable resale price) to 135% (vs. 80%) of AMI.

Outcomes

Facilitated Short Sale and Buyer Access Program

The subcommittee developed a model program to help owners carry out a short sale, once they have gone through foreclosure prevention counseling and decided that a short sale is the preferred outcome (Appendix 6). Key components included establishment of a realtor referral system and use of lender discounts and shared broker fees to help finance the facilitation.

Testing to date, however, has raised questions about when and if facilitated short sales will prove to be a useful approach. While a realtor referral system was successfully established, the two test communities using it have found that most homeowners are not interested in pursuing a short sale and realtors have found it very difficult to establish contacts with lenders and reach agreements on a sale. One is also not emphasizing this element of their neighborhood stabilization strategy at the moment, as foreclosed rental properties are a higher priority for it and it is also still trying to sell

several subsidized condominiums in its own portfolio.

2. Rent to Own (RTO) Program The subcommittee also developed a preliminary program model (Appendix 6) using non-profit acquisition by short sale to help current owners stay in place using the HUD/FHA 203(b) program. The nonprofit would help the former owners to develop the financial capacity to re-purchase their home within 1-3 years by providing or arrange for credit counseling and financial literacy education to help tenants to qualify for FHA 203b loan. The subcommittee noted that nonprofits would need additional equity to carry out the program, both to offset the risk involved in purchasing properties and to maintain the asset to liability ratios required under their existing agreements with lenders.

Status: The RTO model has not been implemented yet by the two test communities examining it, as preliminary explorations revealed the need to refine the model. Lawrence considered it for several properties, but decided to back off at least at present, due to the challenge of financing rehabilitation, holding period and counseling costs, and property management concerns. It noted that the draft model assumed acquisition by short sale and low rehabilitation needs, while short sales have proved impossible to date and rehabilitation needs are significant since that community is targeting properties the private market is not willing to acquire. In addition, the small size of its rental portfolio means relocation costs during rehabilitation would be high since it could not accommodate those tenants with its turnover units during rehabilitation. Its property manager was also concerned about taking on properties before vetting tenants. A second is still clarifying HUD's requirements for participation in the 203(b) program, having been recently advised that a two year track record is required for nonprofits to use it.

3. Buyer Incentive Program After reviewing element of programs in other cities and states (geographic targeting, types of financial assistance provided, income restrictions, and the extent to which programs were designed to combine aid with matching funds put up by "partner organizations"), the subcommittee drafted a model that combines significant down payment/closing cost assistance with no- or low-cost rehabilitation funding and would provide equity insurance by making the soft second mortgage forgivable if market values fall. The model targets vacant REO properties in specific neighborhoods that need minimal rehabilitation and estimates an incentive program would require grants or soft loans totaling \$20-30,000 per property to fund downpayment assistance or minor renovations by the homeowner. It assumes purchases can be negotiated of 90% of current value. The subcommittee recommended tapping State employer-assistance mortgage programs where available to provide some of the subsidy funds, with the balance provided through a soft second mortgage (0% interest loan forgivable after 10 years).

Status: This model is a work in progress. One test community (the Western Massachusetts Foreclosure Prevention Center) has hired a consultant to write white paper on using HOPE 3 grants as a funding source. The Task Force also expects that the experience of two test communities (Springfield and Worcester) using a State employer assistance program (MassWorks) that started in April 2008 will inform future efforts. Springfield Neighborhood Housing Services (NHS) is working with one (Mass Mutual) of four institutional employers that have offered employees downpayment assistance of up to \$10,000 in the form of 5-year forgivable loans for purchases in two neighborhoods and the State will match that contribution dollar for dollar. Buyers can have incomes of up to 110% of area median and must contribute at least 1.5% of downpayment. No sales have been reported to date. The "Buy Worcester Now" initiative involves with 15 lenders and several private employers, is limited to first time homebuyers and is not specifically targeted to foreclosed properties or high foreclosure neighborhoods. Lenders are providing below market fixed rate loans and in some cases up to 100% financing and the employers will provide up to \$2,500 to reduce the buyer's monthly mortgage payments for the first ten years of ownership, with a State-funded match.

LESSONS FROM THE TASK FORCE PROCESS

As the Task Force wound down in August, the steering committee sent a survey to all participants inquiring about the usefulness of the *approaches* the Task Force used in trying to develop programs and policies and the usefulness of the products and programs it produced. Thirty one participants completed the survey (Appendix 8), and almost all (96%) felt that the Task Force produced useful outcomes and commended the processes used (93%). Over half expected to use the funding programs and models for acquisition and rehabilitation. Subcommittee chairs were also interviewed about the Task Force process, its strengths and weaknesses, any changes they would recommend and what lessons from the process might be applicable to future crises.

Respondents generally found communication worked well despite the many participants. One element that appeared to be less successful was the Project Center website which had been developed very quickly when the Task Force was first set up. About forty percent of respondents reported that they found it somewhat difficult to use. A few respondents indicated they felt left out when decision-making occurred between Task Force meetings.

While some subcommittees found the multi-layer meeting process used by Task Force “cumbersome” at times, all agreed that its structure and process played a major role in the success of its efforts.

Key strengths included the size and breadth of the Task Force and its access to resources to support staff and consultants to carry out the work and it. Specifically:

- The size and breadth of participation created a unified and more powerful voice on requests to funders and policymakers, helped build political support, pass legislation and win funding.
- The involvement of organizations such as MHP and MHIC was key to catalyzing work on a number of fronts because of their ability to provide seed funding and/or staff support and expertise, and because of their willingness to commit significant loan funding early on and to be first at the table. Their involvement spurred other funders (such as the State) to then step up.
- Cross sector involvement deepened the understanding of issues, the range of responses considered and the nuts and bolts of implementation, leading to better products. It also broadened understanding of key financing and management issues among sectors (e.g. acquisition challenges, understanding funding needs and various funder requirements in terms of interest rates, risk and other elements and vice versa; all learned more about market, property management and legal considerations). Foundations opened new funding avenues for the test communities.
- The bottom up approach (using test communities) created more usable products and clarified areas that need further work. The Task Force also facilitated collaboration between the test communities and led to a successful joint grant application to foundations.
- The periodic full Task Force meetings enabled participants at all levels to get up to speed on the latest developments, an experience some participants variously described as both overwhelming and energizing. The web-based clearinghouse will enable this learning to continue.
- The Task Force structure and schedule also avoided duplicative meetings and duplication of effort.

Participants suggested several ways they felt the Task Force process could have been strengthened.

- Make sure key parties are at the table. Some felt community activists may have been under-represented, and that their involvement could have helped build the political pressure that appears to be needed to move forward on the unresolved challenges (lender policies and the need for grant funds).
- Avoid Strategic Bias: Several felt that the Task Force's emphasis on producing programs and products quickly, especially for the test communities, and the lack of good information on the at-risk and foreclosed inventory may have resulted initially in an over-emphasis on real estate transactions (sales and acquisitions), and an under-emphasis on less costly interventions such as code enforcement and receivership. They felt that the fact that many Task Force participants came from a deal orientation (nonprofits and funders) shaped that early emphasis. At the same time, they noted that the Task Force came to recognize the important role code enforcement can play and produced tools that will help non-acquisition strategies move forward, including the foreclosed properties database and the development of a model receivership program.

APPENDICES

(Posted on CHAPA's website at www.chapa.org)

Appendix 1 – Task Force Structure and Minutes

- Announcement of Task Force formation/invitation to participate
- Listing of Steering Committee and Subcommittee members, staff and consultants
- Task Force Meeting Minutes

Appendix 2 – Funding Subcommittee

Minutes

Announcement of Neighborhood Stabilization Fund, Terms Sheets

Models, Resources

Living Cities Announcement

Appendix 3 – Acquisition Subcommittee

Minutes, Models, Resources

Appendix 4 – Holding Period Subcommittee

Minutes, Models, Resources

Appendix 5 – Exit Strategies Subcommittee

Minutes, Models, Resources

Appendix 6 – Matching Buyers and Properties Subcommittee

Minutes, Models, Resources

Appendix 7 – Profiles of Test Communities

Test Community Profiles and Reports

Living Cities Application

Appendix 8 – Task Force Survey

Summary of Survey Questions and Responses