

Foreclosure Identification and Prevention
Prepared By The Housing Research & Advocacy Center
FINAL REPORT

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I. Introduction

Housing Research & Advocacy Center Background

The Housing Research & Advocacy Center has a long history of promoting fair housing and lending in Greater Cleveland. The Housing Center was established in 1983 as the Metropolitan Strategy Group, and changed its name in 2003 to better reflect the organization's mission. The Housing Center was founded as a "brown bag" luncheon group of local fair housing/civil rights advocates who shared a goal of expanding housing opportunities for Greater Clevelanders regardless of their race, religion, gender, ethnicities, national origins familial status, or disabilities. Through the years the scope of the agency has changed from a grass roots coalition of community groups to a focused fair housing agency but its mission has remained constant - to ensure, through research, educational programs, public policy and enforcement activities, that all residents are guaranteed equal access to housing.

That change in focus along with significant growth, has enabled the Housing Center to be a very effective advocate for issues relating to fair and affordable housing. Since 2000, the Housing Center has performed more than 700 tests, filed and/or resolved more than forty complaints arising from those tests and educated more than a thousand persons. No other fair housing agency can offer the Housing Center's combined depth of experience in testing, enforcement and research.

The Housing Center has four major program activities. The four major activities are: 1) Systemic and Complaint Based Discrimination Testing; 2) Enforcement Activities; 3) Mapping and Research and, 4) Education and Outreach. Each of these activities are essential to fulfill the organization's mission.

Since 1992, the Housing Center has developed and continuously improved its comprehensive testing and enforcement program to determine if discrimination exists in the housing markets and to address discrimination that it uncovers. The Housing Center has performed more than 1000 audits since its inception and more than 700 since 2000. The audits performed include numerous rentals, sales, lending, and accessibility tests throughout Cuyahoga County and the region. The litigation that arose from this testing program has resulted in over \$400,000 in settlements for the Housing Center. The Housing Center has received grants in the past to perform similar projects from Cuyahoga County, The U.S. Department of Housing and Urban Development, the City of Cleveland and the City of Mentor. All of these fair housing related programs were completed on time and within the allotted budget.

The Director of Research & Investigation and Executive Director both have significant experience in fair housing enforcement and investigation. Both of these staff members have attended the National Fair Housing Alliance "Fair Housing School", and one or both of these staff members have attending training sessions at the John Marshall College of Law in Chicago, and the U.S. Department of Housing and Urban Development investigation trainings.

The Housing Center began performing HMDA research and mapping HMDA data in 1997, when it received a donation of ArcView GIS mapping software from Essential Information in Washington D.C. Since that time, the Housing Center has produced a number of reports

and maps illustrating lending patterns within Greater Cleveland, and around the State of Ohio for city governments, community activists and non-profit agencies. The Housing Center's research has resulted in effective community change including a special allocation of funds from Fannie Mae to purchase non-conforming loans in the City of Cleveland and a community reinvestment agreement with Charter One Bank and community groups throughout the state of Ohio pursuant to which Charter One agreed to increase its lending in Low-Moderate Income (LMI) and minority neighborhoods and to LMI and minority families.

The Housing Center also has experience in conducting other types of fair housing research. In the past, the Housing Center completed an Analysis of Impediments to Fair Housing for the City of Mentor, and Lake County. Upon completion of the AI study for Mentor, the Housing Center staff worked with city officials to develop a plan to address the identified impediments. In part due to our efforts, Lake County helped fund a start up a non-profit fair housing center (Fair Housing Resource Center) to serve the residents of Lake County.

Housing Research & Advocacy Center Staff on the Project

Stacey Morley has been with the Housing Center since the summer of 2001, when she started as a legal intern. Six months later, Stacey became the Program and Projects Assistant and helped the General Counsel and Director of Research with grant reporting, grant writing, research projects, legal cases and general administrative duties. Stacey designed the methodology for this Foreclosure Project, with the assistance of Dr. Mark Salling from Cleveland State University. She was responsible for all of the data collection, recruiting student interns to assist with data collection, training the interns and data entry of all of the information gathered from the foreclosure files at the Courthouse and the Magistrates Office. Stacey is currently attending Cleveland State University where she is pursuing a dual degree in Law and a Masters in Urban Studies.

Carrie Bender has been with the Housing Center since the summer of 2000, when she was hired as the Community-Based Planner. In February of 2001 Carrie was promoted to the Director of Research and Investigation, and is now responsible for performing all of the research and mapping done at the Housing Center, as well as the fair housing discrimination testing and complaint investigation. For this project, she did all of the mapping and analysis of the data. Carrie also helps with grant writing, grant reporting, maintaining the website, fundraising, and planning of the annual fair lending conference. Carrie has a Bachelor of Arts in Geography with a minor in Cartography from Kent State University, and a Master of Arts in Geography with a focus on Urban Geography from Kent State.

Carole Heyward is the former General Counsel for the Housing Research & Advocacy Center. Carole worked for the Housing Center from March of 2000 to September of 2003, and recently left to take a faculty position at the Cleveland-Marshall College of Law. While Carole was at the Housing Center, she oversaw the design of the foreclosure research, including the methodology and analysis of the data collected.

Vance Novak came to the Housing Research & Advocacy Center in March of 2003 to take the position of Administrative Coordinator. Vance oversees all of the administrative tasks at the office, including grant reporting. She assisted Stacey Morley with data entry for this project.

Charles “Chip” Bromley has been the director of the Housing Research & Advocacy Center since its inception in 1983. As the director, Chip oversaw the entire project, ensuring that all of the work products are progressing as indicated in the project schedule.

Purpose of the Study

1. Identify the geographic patterns of distribution of foreclosures in Cuyahoga County, and determine how many of the loans are in the City of Cleveland.
2. Establish the average interest rates, the amount financed, the amount due at foreclosure on the foreclosed loans
3. Determine if there are any “predatory characteristics” (mandatory arbitration, payment on demand, prepayment penalty, balloon payment, credit insurance) present in the loan documents.
4. Identify which lending institutions acted as the original lenders, and what lenders foreclosed on the loans.

II. Methodology

In the summer of 2002, the Housing Research & Advocacy Center began what would become a 15-month project of examining the Foreclosures in Cuyahoga County, Ohio. With the support of the City of Cleveland, Ford Foundation and The Sisters of Charity Foundation, the Housing Center developed a methodology to collect a sample of data on foreclosures in 1997, 1999 and 2001 from the Cuyahoga Courthouse. By looking at the actual foreclosure files, we were able to examine details about these actual foreclosures.

The Sample:

All foreclosures filed are assigned docket numbers by the Cuyahoga County Court of Common Pleas as each case is filed. We decided to look at three years of filings; 1997, 1999 and 2001 since over this time period foreclosure filing rates were increasing. The Magistrate’s Office provided The Housing Center with the exact docket numbers for all the cases filed during the specified years. We took a random sample of each of the three years based on a 95% confidence level and a 5% confidence interval. Using this method, we needed a sample size of 345 for 1997, 356 for 1999 and 364 for 2001. Because we knew that some of these cases would not be home foreclosures since the commercial loans and judgment liens were also included in these filings, we increased the size of each sample to 385 in case any of the individual filings would have to be removed from the sample. To choose the sample from the docket numbers, all the numbers were entered into SPSS (Statistical Package for the Social Sciences), a statistical software, and a random sample was chosen by the computer by requesting the number of files for the sample.

Data Collected

An enormous amount of information was gathered from the foreclosure files in order to draw conclusions about foreclosures in Cuyahoga County. The following is a list of information being gathered and the purpose it can be put to:

- Party names: The plaintiff is the foreclosing, current note-holder but may not be the original lender. The defendants will be the homeowner/borrower and anyone else who has an interest in the property including other lenders and lien holders. This

information can be used to see how many liens are against a property being foreclosed upon.

- Address: The address will be used map the locations of foreclosure filings throughout the county in order to see which cities, neighborhoods are most effected by foreclosures.
- Amount owed and interest rate: This information on the complaint can tell us the average amount owned at time of foreclosure filing and average interest rate.
- Note information: a copy of the note is filed along with the complaint and from this we will be able to find out interest rates, date of loan, amount borrowed, the lender, type of loan and certain types of riders to the loan like pre-payment penalties, balloon payments, arbitration agreements and, if the loan is adjustable, the terms for the interest rate adjustments.
- Judicial Report: filed along with the complaint and note is a title search on the property. This report shows all liens and loans against the property, including taxes.

Limitations of the Data

There are some limitations of the data that is available in the foreclosure files at the Cuyahoga County Court of Common Pleas. The files usually contain the complaint, the judicial report and the note. From these documents we can extract the plaintiff, the defendant(s), the date filed, the interest rate on the complaint, the interest rate on the note (these are usually the same, but if the rate is adjustable, the rate may be different on complaint), the amount financed, the amount owed at foreclosure, and the presence of some predatory characteristics (prepayment penalties, mandatory arbitration clause, balloon payment, and credit insurance). The one document that is missing from the files is the HUD-1. Without the HUD-1, we cannot identify the broker fees and the disbursement of money (i.e. how much the borrower actually received).

From the foreclosure data, we cannot determine why the borrower could not make payments on their loan and consequently went into foreclosure. There may be clues in the data that we collected, knowing if borrowers have other loans, liens, or high interest rates, however, without interviewing the borrowers there is no way to determine the reason for foreclosure.

III. Statistics

Upon completion of the data collection, the Housing Center looked at the information gathered for each of the sample years, 1997, 1999 and 2001. The statistics reported here are presented for each of the years individually, as the data for each of these years was treated as an individual sample. Much of the information is also presented for Cuyahoga County vs. the City of Cleveland.

1997

The total number of foreclosures filed in Cuyahoga County in 1997 was 3400. The sample size needed for this size population was 345. We took a sample of 385 cases to ensure we had a large enough sample if any of the randomly selected sample cases we looked at had to be removed from the sample because they were not home foreclosures. (The filings are 85-95% home foreclosures, but they also include judgment liens, quiet titles and commercial foreclosures). Of the 385 foreclosure sample, 1 file was missing, and 23 were removed

from the sample because the files were not home foreclosures. The actual sample size for 1997 was therefore 361 foreclosure cases. Of the 361 foreclosure filings, 212, or 58.73% were located in the City of Cleveland. At the time we reviewed the files, 167 of the 361 files were actual home foreclosures. The other cases had either been dismissed (157), pending (11) or some other action was taken (stayed due to bankruptcy for example). Of the 167 actual foreclosures, 105 or 62.9% were in the City of Cleveland. The total population of Cuyahoga County according to the 2000 Census was 1,393,978, and the total population of the City of Cleveland was 478,403, which is 34.32% of the county population.¹ With only 34.32% of the county population in Cleveland, and 58.73% of the foreclosures in The City of Cleveland, The City of obviously carrying a greater share of the burden of foreclosures than the rest of the communities in Cuyahoga County.

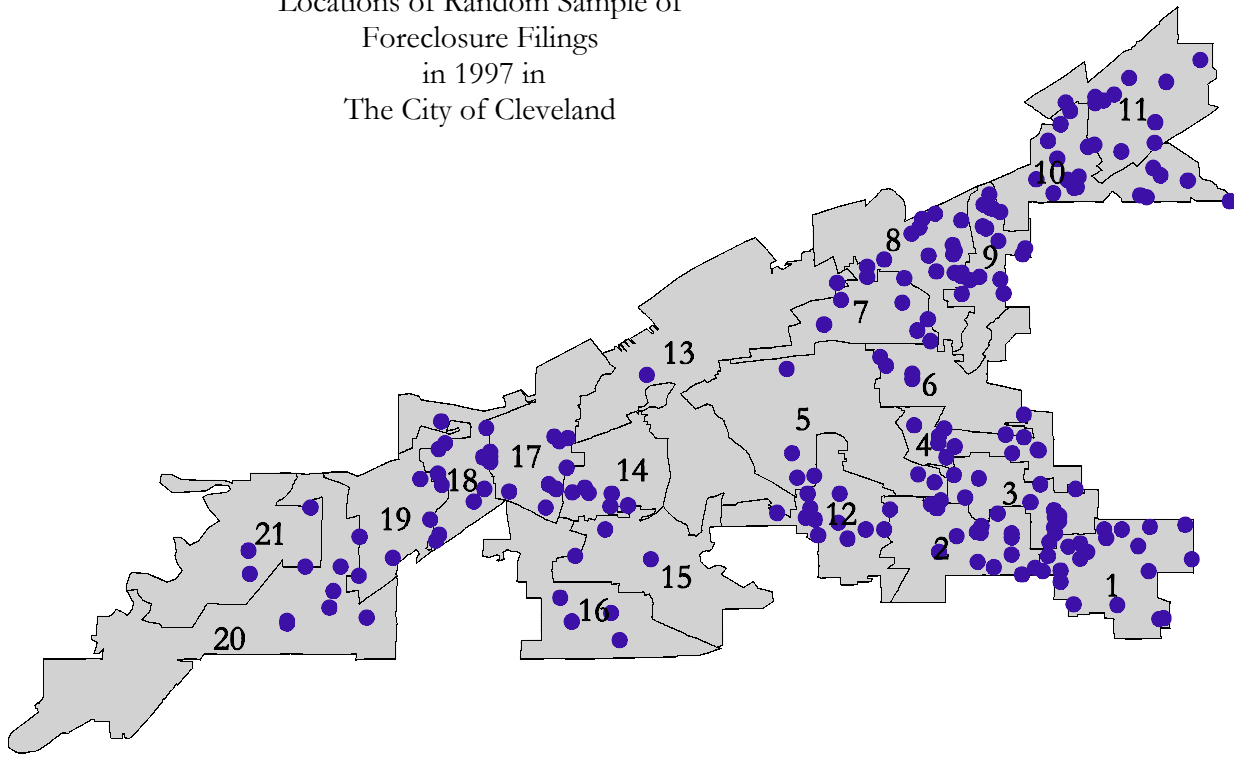
Table 1: Summary of Foreclosure Statistics for 1997

	Cuyahoga County	City of Cleveland
Average Amount Financed	\$55,530.93	\$39,215.79
Average Interest Rate on Complaint	10.42%	10.71%
Average Interest Rate on Note	10.10%	10.62%
Average Amount Due at Foreclosures	\$56,462.15	\$50,363.57
Percent with Balloon Payment	5.26%	5.66%
Percent with Prepayment Penalties	18.56%	18.87%
Percent with Payment on Demand	23.55%	24.06%
Percent with Mandatory Arbitration	1.11%	0.94%
Percent with Credit Insurance	0.83%	0.94%
Percent with 1 or more “Predatory Characteristics”	37.12%	37.74%
Percent with other loans	41.83%	43.01%

Approximately 59% of all of the foreclosures filed in the 1997 were in the City of Cleveland. As shown on the map below, (Map 1) most of these foreclosures are concentrated on the Eastside of the City. 60.1% of these foreclosure cases are located in predominantly Black census tracts (census tracts where the Black population is greater than 50%). While the foreclosure files do not reveal the race of the borrower, mapping the locations of the foreclosures does reveal the race of the neighborhoods where the home foreclosures are concentrated.

¹ U.S. Census Bureau, Demographic Profiles; <http://censtats.census.gov>

Locations of Random Sample of
Foreclosure Filings
in 1997 in
The City of Cleveland



Source: Cuyahoga Court of Common Pleas, Data Collected by The Housing Research & Advocacy Center

1999

In 1999, the total number of foreclosure filings in Cuyahoga County was 4871. Based on this population size, the sample size required was 356. We again took a sample of 385 in case any of the files had to be removed from the study because they were not home foreclosures. Of the sample of 385, 5 were missing, and 11 were not home foreclosures. This left us with an actual sample size of 369. Of the 369 files, 229 or, 62.06 % were in the City of Cleveland. By mapping the locations of these foreclosures in the City, we were able to determine that 59.62% of these home foreclosures filed in the City were in Black census tracts. 150 of the 369 cases used in the sample were actual foreclosures, all of the other cases were either dismissed (172), pending (20) or other action was taken (27). Of the 150 foreclosures, 98, or 65.3% were located within the City of Cleveland.

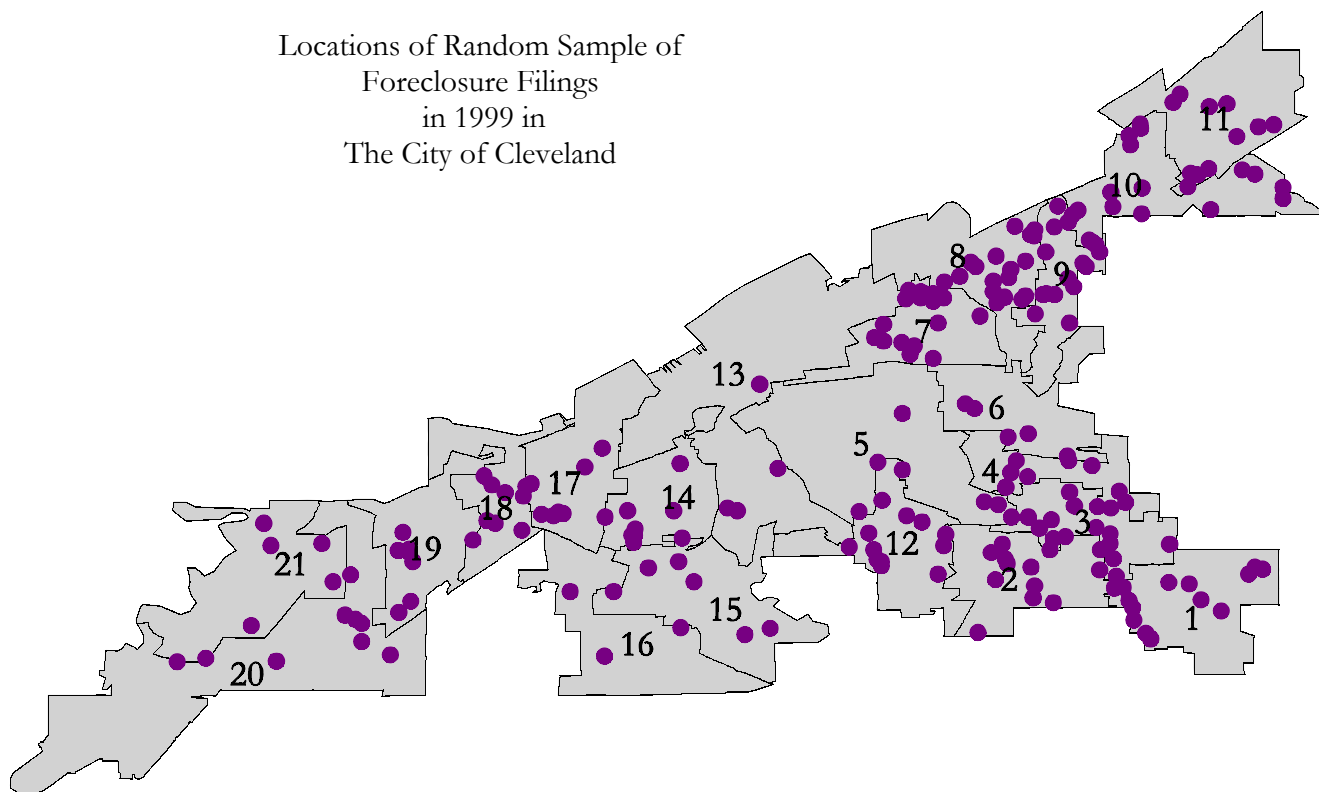
Table 2: Summary of Foreclosure Statistics for 1999

	Cuyahoga County	City of Cleveland
Average Amount Financed	\$61,382.41	\$48,305.97
Average Interest Rate on Complaint	10.36%	10.64%
Average Interest Rate on Note	9.64%	10.51%
Average Amount Due at Foreclosures	\$56,611.80	\$46,308.02

Percent with Balloon Payment	12.20%	12.50%
Percent with Prepayment Penalties	38.15%	42.24%
Percent with Payment on Demand	25.34%	26.94%
Percent with Mandatory Arbitration	2.45%	3.20%
Percent with Credit Insurance	1.91%	1.83%
Percent with 1 or more “Predatory Characteristics”	53.93%	59.21%
Percent with other loans	40.82%	38.16%

One of the most significant statistics from the 1999 data is the dramatic increase in the number of predatory characterizes in the City of Cleveland. According to our sample data, almost 60% of all loans in these cases in 1999 had 1 or more of the predatory characteristics. Without having a control sample of non-foreclosed loans from this same year, it is impossible to say if the increase in predatory loans has resulted in the increase in foreclosures, however, there has been a steady increase in the presence of prepayment penalties, balloon payments, and payment on demand clauses in the foreclosed loans.

Locations of Random Sample of
Foreclosure Filings
in 1999 in
The City of Cleveland



Source: Cuyahoga Court of Common Please, Data Collected by The Housing Research & Advocacy

2001

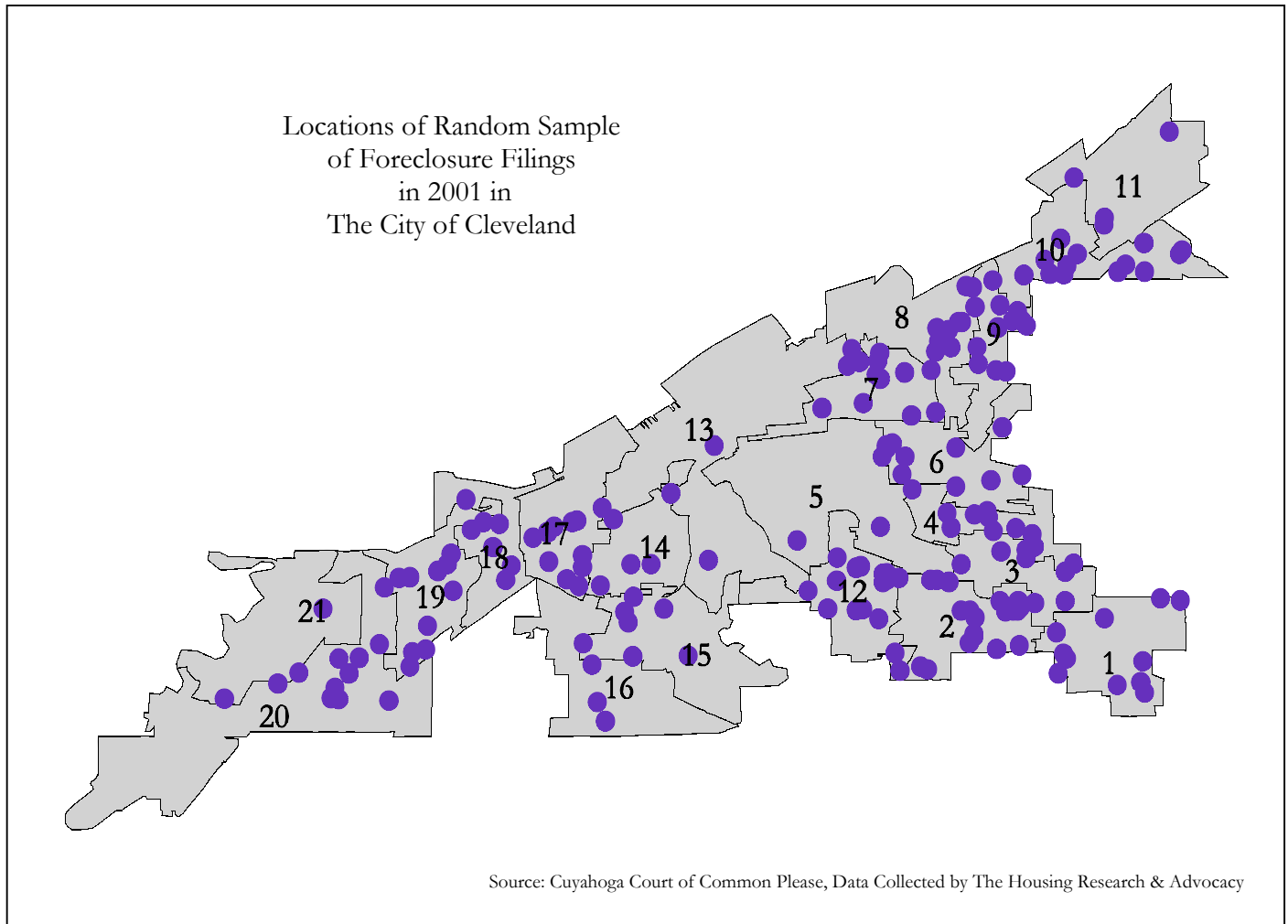
There were 6801 total home foreclosures filed in Cuyahoga County in 2001. With a population size of 6801, the sample size must be at least 364 to be statistically significant using the 95%/5% method. We again took an initial sample of 385 cases and removed any files that were not home foreclosures, once these files were removed we were left with a sample of 378. Of these 378 foreclosures, 206 or 54.5% of the filings were located in the City of Cleveland. In 2001, 56.48% of the City of Cleveland foreclosure cases were in the predominately Black census tracts. Unlike 1997 and 1999, there are still a lot of cases pending in 2001. However, of the cases that had been resolved at the time of our data collection, 76 of the 378 cases in Cuyahoga County were foreclosures, and 38, or 50% were in the City of Cleveland. The remaining cases were either pending (109), dismissed (142) or other action was taken (51).

The presence of predatory characteristics continued to rise in 2001, 2/3 of our sample files contained one or more of the five predatory characteristics. What is most astonishing about the great number of predatory characteristics we found in our research is that there are other predatory characteristics that we cannot identify through the files, such as broker fees, that may be present as well.

Table 3: Summary of Foreclosure Statistics for 2001

	Cuyahoga County	City of Cleveland
Average Amount Financed	\$71,680.72	\$56,035.79
Average Interest Rate on Complaint	10.35%	10.65%
Average Interest Rate on Note	10.38%	10.5%
Average Amount Due at Foreclosures	\$69,179.95	\$54,191.42
Percent with Balloon Payment	15.57%	16.99%
Percent with Prepayment Penalties	41.95%	48.54%
Percent with Payment on Demand	26.39%	30.1%
Percent with Mandatory Arbitration	1.85%	2.9%
Percent with Credit Insurance	0.26%	0%
Percent with 1 or more "Predatory Characteristics"	58.73%	67.0%
Percent with other loans	38.60%	35.44%

Map 3

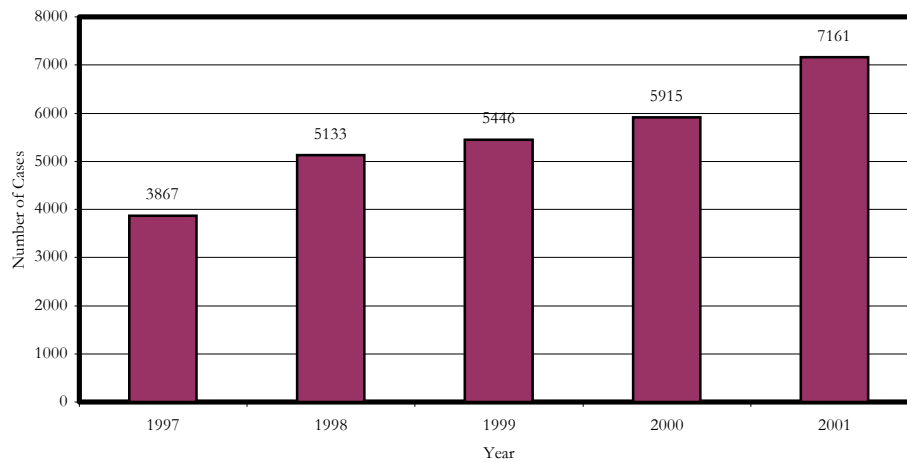


IV. Summary of Findings

Cuyahoga County, and the whole State of Ohio² have seen unprecedented increases in home foreclosure over the last decade. It is expected that by the end of 2003, there will be more than 11000 foreclosures filed in Cuyahoga County.

² See: Stock, Richard *Predation in the Sub-Prime Lending Market: Montgomery County*. October, 2001.

Total Number of Cases Referred to the Cuyahoga Court of Common Pleas, Magistrates Office, approximately 85 to 90% are Foreclosures



A statistically significant sample size is an important part of any research project. If the sample is statistically significant, it can be used to make some assumptions about the total population. In this research project, our sample was a random sample with a 95% confidence level and a 5% confidence interval. What that means is that we can say, with 95% confidence that our statistics are within 5% accuracy. We can therefore use the information from the sample of foreclosures to make some postulations about the total population; in this case, the population equals all of the foreclosures in the County for a given year. Using the statistics from the sample we can estimate that approximately 58.4% of all of the foreclosures in Cuyahoga County are in the City of Cleveland. That would mean that in these three years, 1997, 1999 and 2001, there were over 9000 foreclosures in the City of Cleveland. Since 11000 foreclosure filings are projected for 2003, an estimated 6000 Cleveland residents are at risk of losing their homes to foreclosure in this year alone. Furthermore, 67% of the foreclosure filings could have predatory characteristics, which means that of the 6000 projected foreclosures in 2003, more than 4000 of these loans probably contain one or more predatory characteristic such as payment on demand or balloon payments.

Table 4. Summary of City of Cleveland Foreclosure Statistics

	1997	1999	2001
Average Amount Financed	\$39,215.79	\$48,305.97	\$56,035.79
Average Interest Rate on Complaint	10.71%	10.64%	10.65%
Average Interest Rate on Note	10.62%	10.51%	10.50%
Average Amt. Due at Foreclosure	\$50,363.57	\$43,308.02	\$54,191.42
Percent with 1 or more "Predatory Characteristics"	37.74%	59.21%	67.0%
Percent with other loans	43.01%	38.16%	35.44%
Average Term	24.49 years	25.14 years	24.95 years

The Lenders

The sample of files that we reviewed for this project contained information on the original lender who made the loan, and the lender that is foreclosing on the loan. These lenders are often different if a broker is making the loan to the borrower and then selling that loan to prime bank where they have a line of credit. Many of these brokers will make the loans outside of the assessment area of the banks, places where the bank does not have depository institutions. Some of the most common lenders that appeared in our sample are listed in the following table:

Most Common Lenders Foreclosing, or Making the Original Loans

Foreclosing Lenders:

United Companies Lending Corporation
Transamerica Financial Services
Third Federal Savings & Loan
Nationsbanc Mortgage Corporation
National City Bank
Leader Mortgage Company
KeyBank N.A. (fka Society Bank)
First Nationwide Mortgage Company
Federal National Mortgage Association
Contimortgage Corporation
Bank One N.A.

Original Lender

United Companies Lending Corporation
Third Federal Savings & Loan
Society National Bank (nka KeyBank N.A.)
National City Bank
Mortgage Executives Inc.
Freedom Mortgage Corporation
First Ohio Mortgage Corporation
Colony Mortgage Corporation
Banc One Mortgage Corporation
Assured Mortgage Corporation
American Midwest Mortgage Company

V. Recommendations for Changes

One of the reasons that there has not been a comprehensive study of the foreclosure trends in Cuyahoga County, or The City of Cleveland is that currently the only way to view the information in the foreclosure files is to physically go to the Cuyahoga Courthouse and inspect the files individually. This is a very time consuming process, and we estimate that it takes an average of 1 hour to review each case to extract the information we were seeking though this research. After going through this process of data collection, the changes that we recommend are in relation to the maintenance and record keeping of the foreclosure filings. If the County stored the information on each foreclosure electronically, then anyone would have access to the information without having to take on the enormous task of

physically going through the files individually. The following are the Housing Research & Advocacy Center recommendations for changes:

1. As each foreclosure is processed, the information can be recorded in a database at the Cuyahoga Court of Common Pleas.
2. Ideally, each document in the foreclosure filing could be scanned so that it could be viewed via the Internet.
3. Since every property has a permanent parcel number, which is located on all of the foreclosure complaints, this number could be recorded electronically, making it much easier to track the foreclosure locations. Having the permanent parcel number would at least make it possible to extract foreclosure docket numbers for individual cities from the rest of Cuyahoga County. The permanent parcel numbers are assigned and numbered by city. Right now, the information that is available electronically does not include the address of the foreclosed property.
4. One of the documents that is not included in the files is the HUD-1. This is the only document that contains all of the fees associated with the loan (including the broker fees) and the disbursements (how much money the borrower received). It is up to the individual county to determine what documents to be included in the proceedings, and currently, the HUD 1 document is not included in the foreclosure files in Cuyahoga County.
5. A second document that is not included, in the Cuyahoga County foreclosure documents is the Truth in Lending Disclosure Statement.

VI. Recommendations for Prevention of Foreclosures

Education

A lack of knowledge by the borrower about the process of mortgage lending and credit is perhaps one of the most common problems that lead to foreclosure. Many of the loan files that our research assistants reviewed revealed that there were a number of borrowers that had refinanced in the past, filed for bankruptcy, and had other liens and debts. Educating borrowers before they sign loan documents may greatly impact the foreclosure rate in the community. The City of Cleveland can take steps to require that all residents attend loan-counseling classes or meet with a credit counselor before they can receive a loan.

Loan Review

Many borrowers are unaware that they might be signing loan documents that contain predatory characteristics such as balloon payments or high broker fees. If the City of Cleveland could provide a loan document review for residents, in conjunction with the lending education, at a minimum, loans with predatory characteristics could be identified, and the borrower could avoid signing such a loan.

Survey of Borrowers

Reviewing foreclosure documents does reveal some of the details of the problems of foreclosures in the City of Cleveland, however by talking to actual borrowers who have lost their homes to foreclosure, the City may be able to find out much more information about why the homeowner could not make their payments, how they were solicited for the loan,

what the broker fees were, and what happened to them as a result of the foreclosure on their home loan.

Promoting Prime Lending

It is essential that residents of all neighborhoods in Cleveland have access to prime banks in their community. Without the presence of bank branches, and marketing by these branches, residents are more likely to do business with brokers. The City of Cleveland needs to ensure that residents have better access to prime banks, particularly in the traditionally underserved neighborhoods.

The City could ask the lenders and purchasers of loans to make good faith efforts to work with borrowers before initiating foreclosures. If the lenders are willing to take these steps to make good faith efforts to work with homeowners, it could prevent some homes from going into foreclosure.

The City could ask the banks to participate in a one-time per customer debt forgiveness program for low and moderate income residents. The program would be limited to a one-time use by residents, where the banks would forgive one monthly mortgage payment.

Promoting Change in Foreclosure Filing Record Keeping

Without change in the record keeping of the foreclosures filed through the County, there is no easy way to research the continued increase in foreclosures in Cuyahoga County, and therefore the City of Cleveland. Currently, there is no way for someone to even find out the exact number of foreclosures in the City of Cleveland without going through all of the files of a given year. This sample is the closest we can currently come to in estimating these numbers. The City of Cleveland needs to convene a group of representatives from the City, the County and non-profits to meet with people from the Magistrates office to discuss the issues with data record keeping.