PRINCIPAL REDUCTION/FORECLOSURE PREVENTION
IDT DRAFT FINAL REPORT
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BACKGROUND

Foreclosure and its accompanying toll ultimately comprise individual stories about people, and about very human experiences. Foreclosure can be an all-consuming and deeply personal experience, which in far too many circumstances during the past recession was enacted en masse, unfairly, with lack of transparency and with a lack of supportive resources. This led to significant losses, disproportionately in communities of color – many of which may not be recouped.

Reasons for Foreclosures:
Various reasons for foreclosures have been cited across national research, but generally they have been found to include one or more of the following: a change in personal circumstances (such as job loss/loss of income, divorce, or medical crisis, or other income-disrupting life events), inadequate budget management skills to navigate costs associated with homeownership, predatory or illegal lending practices, fraudulent actions undertaken by the borrowers themselves, and strategic defaults (wherein buyers choose to cease payments on their mortgage, despite an ability to pay).

Fortunately for many homeowners who during the recent recession experienced decreases in their home valuations, the local landscape has shifted quite dramatically. Home prices in the past 18 months have rebounded dramatically in the City, with the Northwest Multiple Listing Service (NWMLS) reporting a Seattle median home sales price of $490,000 for the month of May 2014, (creating quite a different kind of challenge for other financially strapped households who now have fewer affordable housing options in the city of Seattle). While the post-recession market has rebuilt equity for countless homeowners previously underwater, for those homeowners still struggling to maintain their mortgages, their hardship remains real as it was for countless homeowners during the recession.

In response to Resolution 31495, the IDT examined: the resources currently available at the local, state, and federal levels, who is not being helped and for what reasons, and possible strategies to overcome any gaps that exist.

Current Market:
In order to get a better grasp of the current housing market and the scale of the foreclosure landscape in the City, the IDT examined various sources for current and year-over-year data. Over a year ago, a number of foreclosure consultants, including Professor Robert Hockett, were provided with a scope of work which included data inquiries later provided to this IDT. Professor Hockett's report entitled "Post-Bubble Foreclosure Prevention Mitigation Options in Seattle", issued in November 2012, was provided to the IDT. In addition, various consultants, including those working with the Urban Institute and the National Foreclosure Mitigation Counseling Program at NeighborWorks America, noted the complexity in gathering data on this subject. These consultants noted that much of the requested Seattle-specific data was uncollected, unavailable, or proprietary; they noted further that it would require complex statistical and economic skillsets to unpack micro-datasets collected solely in the national aggregate but not collected on a community level.

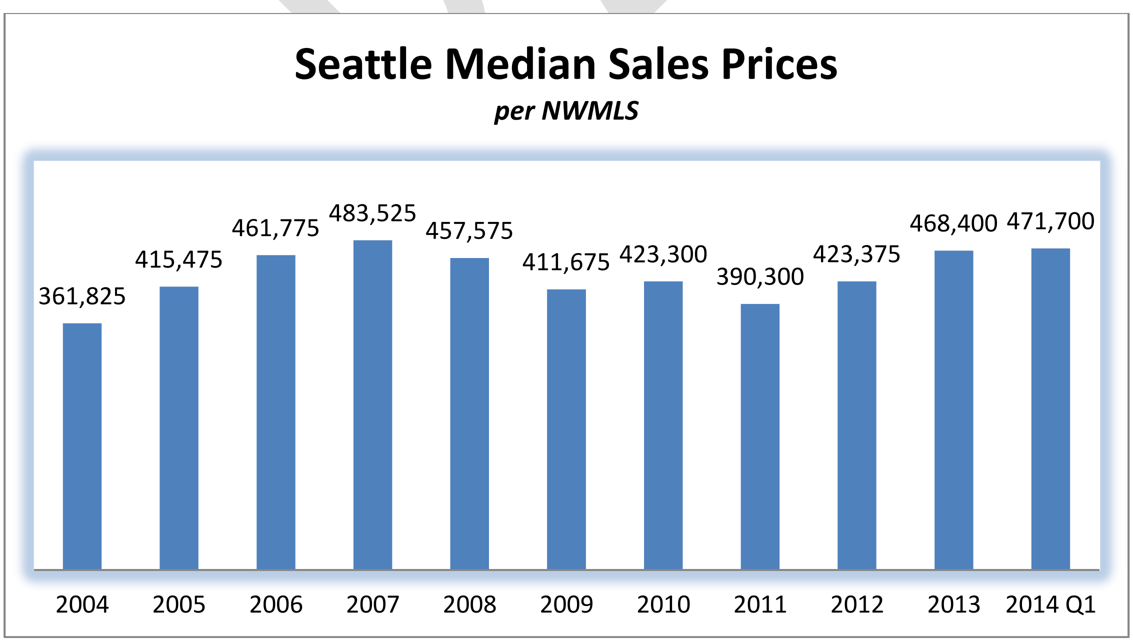
This IDT staff team experienced these data barriers first-hand. IDT staff recently spoke with Peter Tatien, a senior fellow at the Urban Institute, who stated that their recently established Housing Finance Policy Center (HFPC) had a team of economists analyzing proprietary micro-data provided by CoreLogic (at a cost in the “six digits”) – but that the HFPC was not producing loan findings on a community level. Local mortgage leaders also confirmed that because federal regulations do not have community-level reporting requirements, detailed loan data doesn’t get reported out at the local level.

With that said, it was possible to extrapolate some data and draw some compelling conclusions, aided in part by a local housing market that has widely and dramatically rebounded from the diminished valuations that occurred during the recession.

The following outlines a data continuum highlighting (with limitations where noted) home values, homeowners in negative equity, homeowners in negative equity **and** delinquency, and those in some stage of foreclosure proceedings.

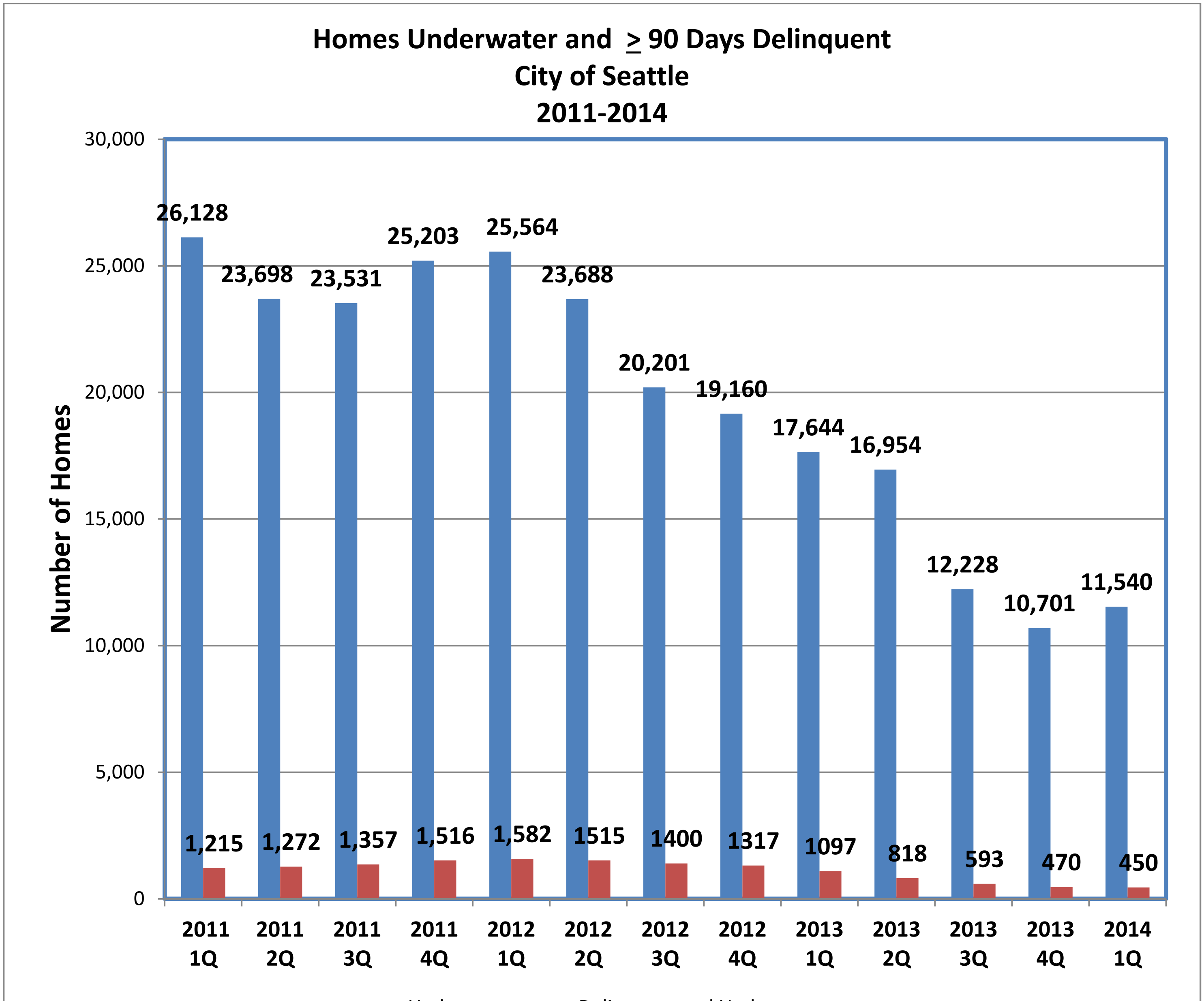
HOME VALUES, NEGATIVE EQUITY, DELINQUENCY, AND FORECLOSURE BY THE NUMBERS:

Home Sale Prices Year-over-Year:
Below is a year-over-year snapshot of median sales prices in the City of Seattle, per the Northwest Multiple Listing Service. Median sales prices have steadily increased since 2011. There was more than a 9.5% increase in median home sales prices from 2012 to 2013. Median prices have, in fact, nearly returned to pre-recession heights seen in 2007.



Number of Homeowners with Negative Equity:
Zillow currently finds that 11.8 % of mortgages in the City of Seattle have negative equity (frequently referred to as “underwater”). Zillow Negative Equity Report, May 2014. CoreLogic (a national provider of consumer, financial and property information) reports separately that 92.5% of Seattle Metro area homes are in positive equity positions, putting Seattle Metro area among the Top Five areas in the nation.

Number of homeowners Underwater and Delinquent:
While being underwater is a risk factor for foreclosure, being underwater does not itself determine a household’s ability to make mortgage payments. It is ultimately delinquency rather than underwater status that places homeowners at risk of foreclosure. The graph below shows that of 11,540 Seattle homeowners estimated to be underwater in Q1 2014, **450** are currently both underwater **and** seriously delinquent ($\geq$ 90 days delinquent) on their loans. Put differently, fewer than 4% of underwater loans in the City are seriously delinquent. Moreover, the absolute number of homeowners in this position has been trending steadily lower since Q1 2012, and the number of homeowners in the most recent quarter is approximately one-third of the number from two years ago. The reasons for each of these delinquencies are, like all cases of financial hardship, varied and unknown. However, knowing the individual circumstances is key to helping these households.

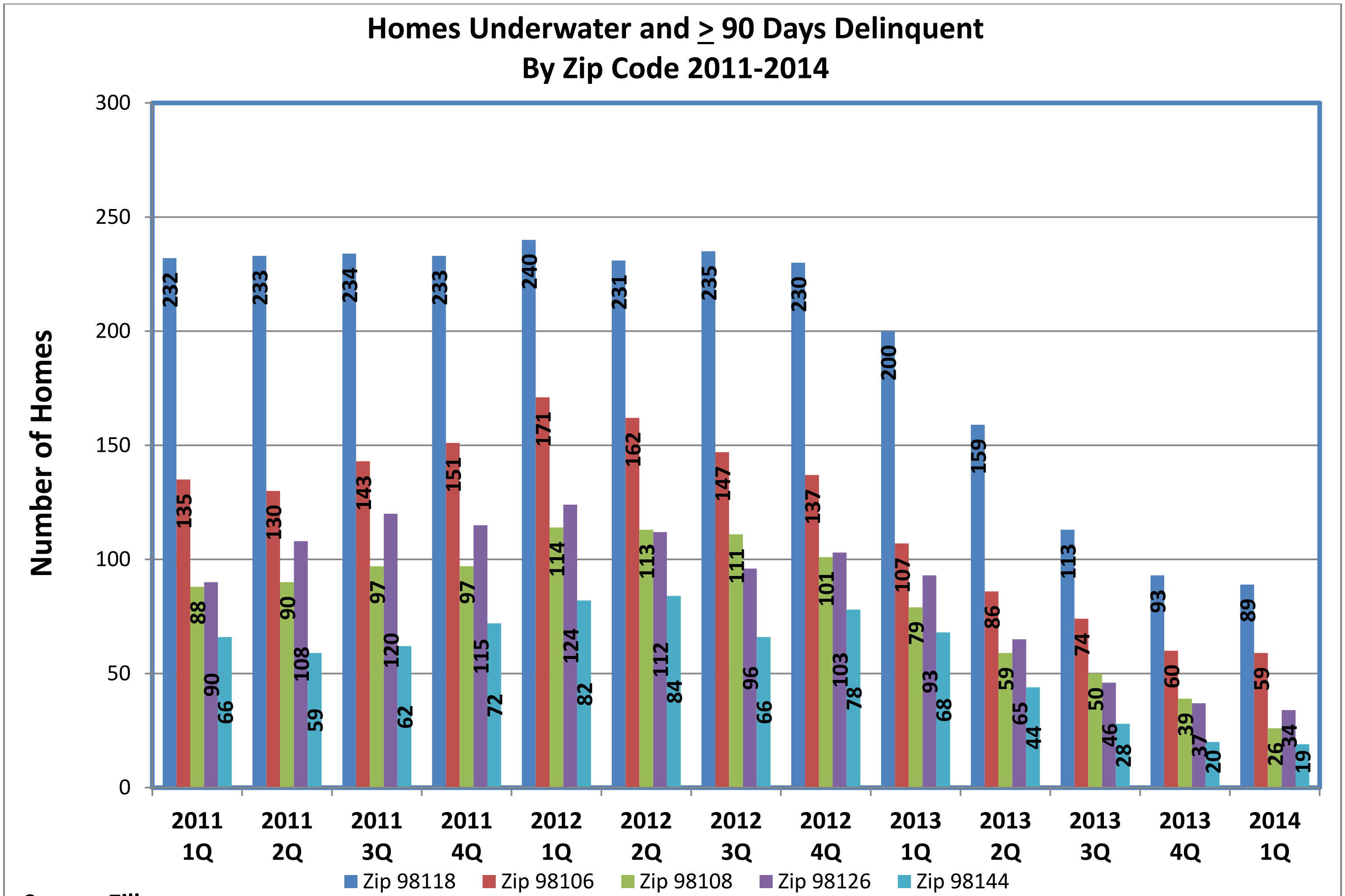


Source: Zillow

While the graph above shows that the overall number of underwater and seriously delinquent households has clearly declined in Seattle, the following graph looks closer at the number of underwater ***and*** seriously delinquent households in the five Seattle zip codes experiencing the highest rates of these activities between 2011 and 2014.

The recession and mortgage industry implosion had a disparate impact in zip codes with higher numbers of low-income households and householders who are persons of color. ACS and Census data show declines in homeownership rates across all households since 2010, but with more significant rates of declines among African-African American households. See Appendix 1.

Looking specifically at the top 5 Seattle zip codes with the highest numbers of homeowners with negative equity **and** serious delinquencies, the chart below shows that each of these areas closely mirror the overall Seattle trend of fewer homes underwater and seriously delinquent.



Source: Zillow

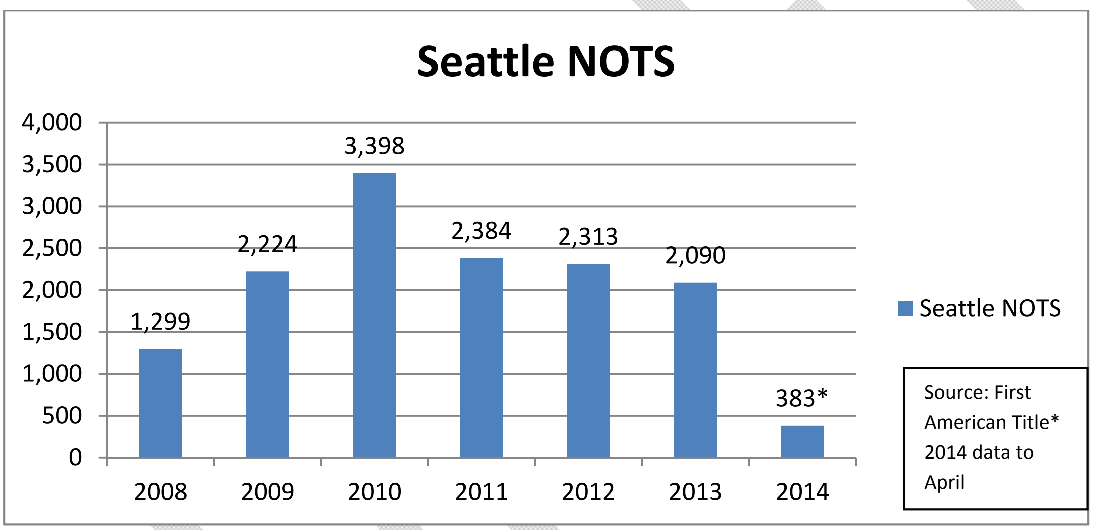
These zip codes are for the following Seattle neighborhoods:

98118	Southeast Seattle (Genesee to Rainier Beach)
98106	West Seattle (Delridge)
98108	South Park, Beacon Hill
98126	West Seattle (Highpoint)
98144	Beacon Hill, Central District

We do not have income data on these households so we do not know how many are low-income (i.e. have annual incomes at or below 80% of median income). This is an important benchmark because these are the households that would be most heavily impacted, economically, by foreclosure in the short and long term, and are the households the City is most able to help given legal restrictions on ability to assist those above 80% of median income.

Of note, in recent years, nearly 50% of the underwater and seriously delinquent homes have been located in the top 5 zip code areas, some of which have higher numbers of low-income households and householders who are persons of color compared to owner-households in the City as a whole.

Number of Homeowners in Process of Foreclosure:
The above data trends highlight the evolving numbers of Seattle households facing potential financial hardship. But just as underwater status neither necessitates nor implies financial risk, delinquency does not lead to foreclosure in all cases. The IDT determined the year-over-year number of actual Notice of Trustee Sale (NOTS) issued in the City by aggregating weekly data provided by First American Title. NOTS are notices providing specific information about the loan in default and the foreclosure proceedings about to take place. In Washington, at least 90 days before the foreclosure sale, the Notice of Trustee's Sale must be recorded in the county where the property is located, mailed, and served or posted.

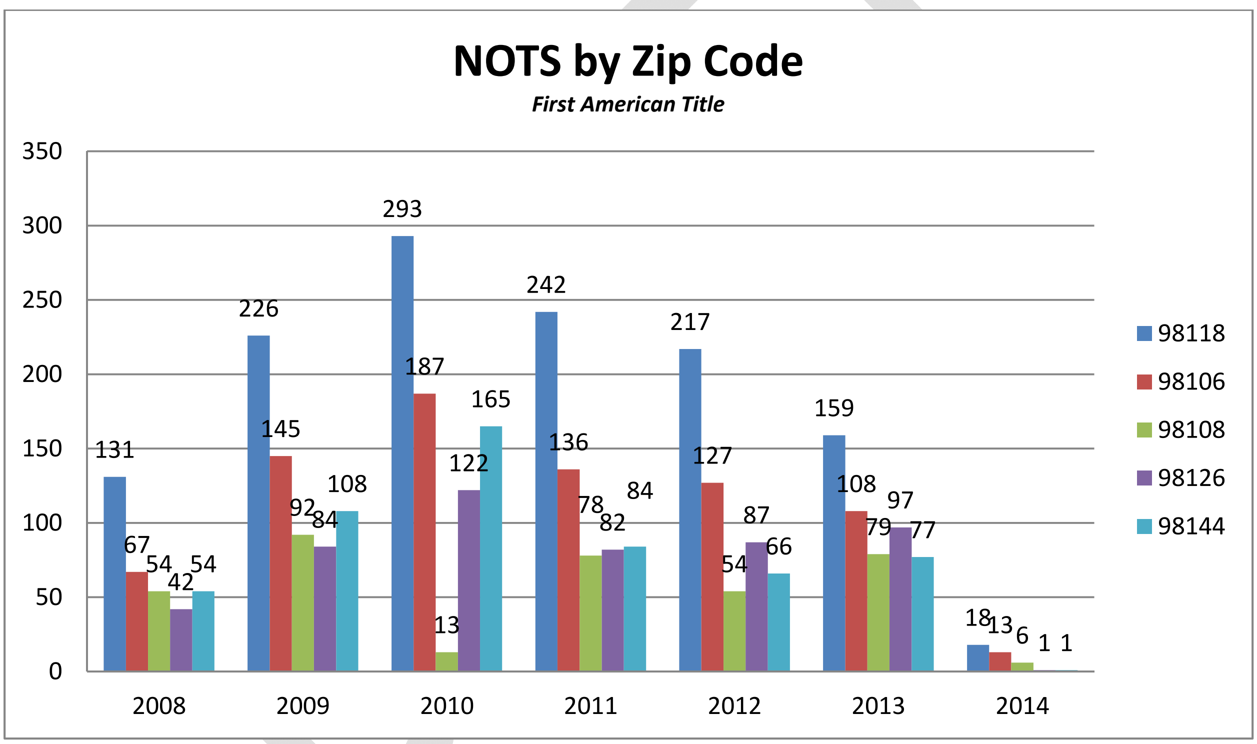


There were 2,090 NOTS in Seattle during 2013; down 38% from 3,398 in 2010. Data suggests this trend continuing thus far in 2014. There were 383 NOTS issued as of the end of April 2014. Over the same period in 2013 (January through April), there were 728 NOTS – representing an over **52% decrease from the prior year**. Again, it is not possible to determine the number of **low-income** homeowners in the process of foreclosure.

It should be noted, that not all Notice of Trustee Sales result in foreclosure. The default may have begun much earlier. The Servicing Alignment Initiative requires notice to borrowers who are considered to be in default the first day after the payment was due. A Notice of Default must be given at least 30 days before the Notice of Trustee's Sale can be recorded or served. And, a Notice of Trustee Sale must be recorded at least 120 days before the sale. The homeowner then has 20 days from the recording date to have a housing counselor or attorney request mediation. Defaults then have 11 days before the sale date to be cured.

It is of interest to note that 47% of all NOTS issued in 2013 were on mortgages below the current HUD maximum sales price of $288,000 - the maximum sales price that low-income homeowners (earning 80% or less of AMI) may purchase and qualify for City down payment assistance. This would suggest that there is some significant percentage of higher-income households that have mortgages supported by incomes above the limits that a Seattle program could potentially fund.

The following chart provides a year-over-year look at NOTS activity in the zip codes wholly within Seattle identified above as having the highest rates of negative equity and delinquency:



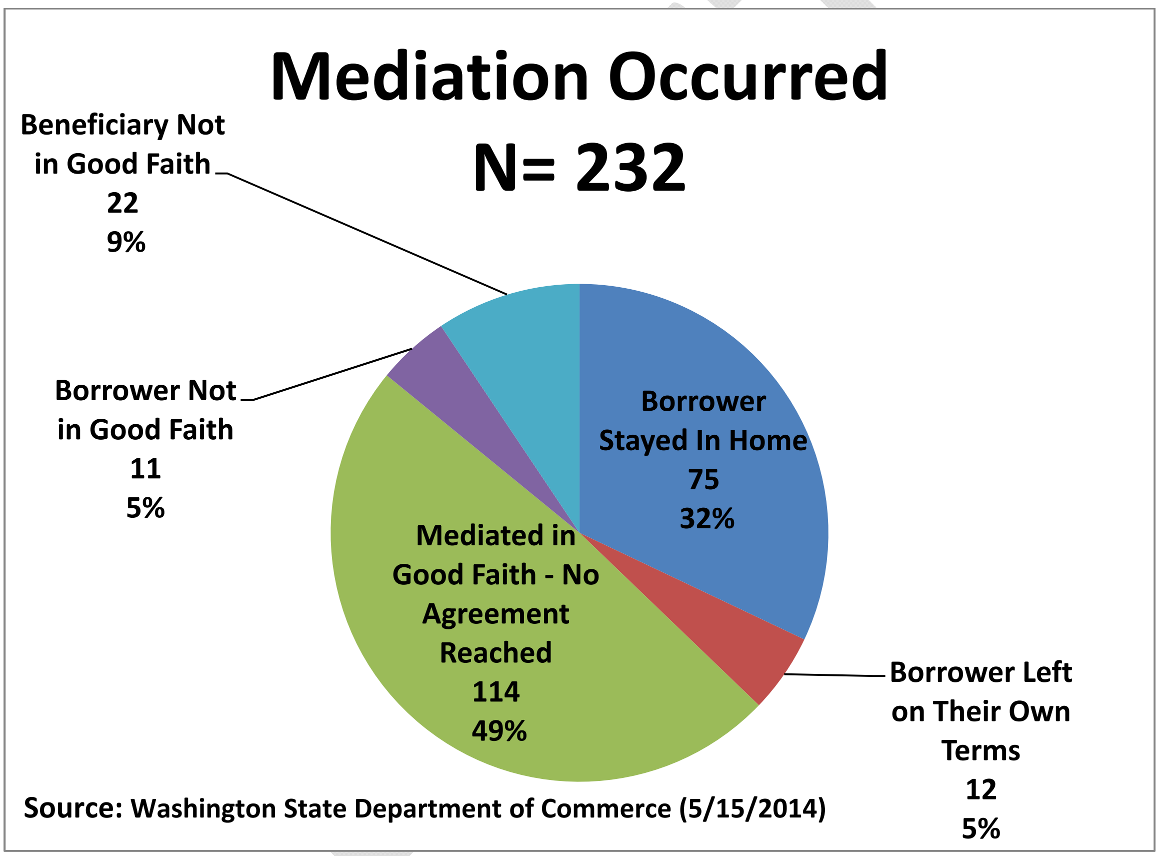
Types, numbers, and locations of loans held, including portfolio, GSE and private label securitization trusts:
As noted previously, community level data on loan type, numbers, etc. is not available, per Peter Tatien at the Urban Institute.

Foreclosure Fairness Act and Agency Outcomes:
The State's Foreclosure Fairness Program (FFP) provides resources for counseling and legal services to assist homeowners with mediations. It is designed to help homeowners and their lenders explore possible alternatives to foreclosure and reach a resolution when possible. The intent of the FFP is to ensure that, even when foreclosure cannot be avoided, the process is fair and transparent, and that both the borrower and the beneficiary have the opportunity to meet and make well-informed decisions.

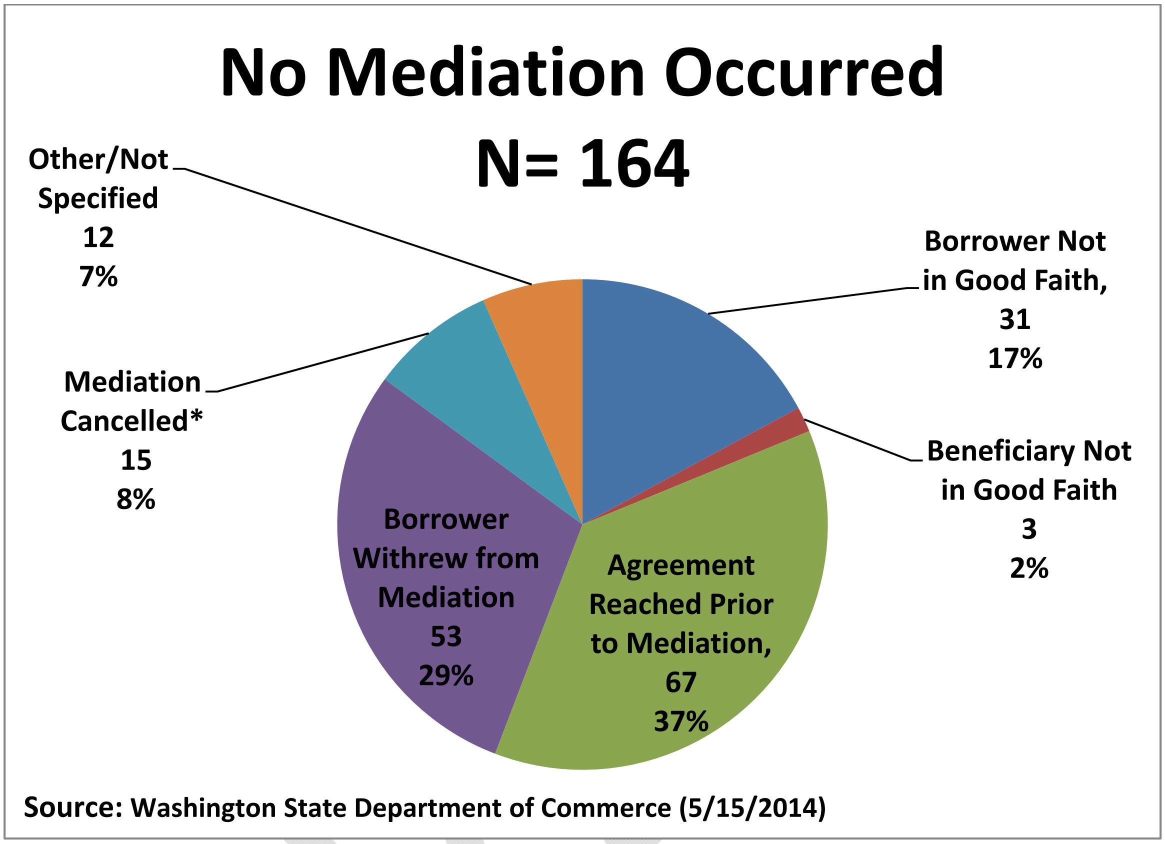
Mediation gives borrowers the chance to understand their options and requires beneficiaries to explain why some options may not be available.

The State collects data on homeowners who go through mediation that includes outcomes of such mediations. They also receive data on agreements reached outside of mediations, but this data does not include outcomes. The State does not collect any information on income level, loan type, or other demographic data on homeowners assisted under the FFP. The Seattle outcomes reported by the State Department of Commerce illustrate the challenges faced when attempting to measure outcomes in the complicated world of foreclosure.

As of May 2014, **678** mediation referrals were received from Seattle homeowners. 396 of these cases were Certified or Closed. Of these, 232 cases went through formal mediation with the following outcomes:



Mediation did not occur in 164 cases, for the following reasons:



Of note, 75 homeowners (32%) who participated in mediation reached agreements allowing the borrower to stay in their homes. 12 homeowners (5%) reached agreements that allowed the borrower to leave their homes on their own terms via a short sale, cash for keys, deed in lieu, etc. An additional 67 homeowners (37%) reached agreements prior to mediation. Data on outcomes of agreements negotiated outside the mediation process are not collected by the state. Therefore, we do not know if these borrowers reached agreements that allowed them to stay in their homes or required them to leave their homes.

Agencies serving Seattle Residents: Information to be added

As the data indicates, the Foreclosure Fairness Program (FFP) **can**, and **has** assisted homeowners at risk of foreclosure remain in their homes. In addition, this process has assisted some homeowners, particularly those who do not have adequate income to sustain a mortgage payment, achieve an agreement that allows the homeowner to leave their home on beneficial terms. FFP cannot help everyone.

Beyond the data and complicated outcomes, the IDT spoke with representatives from community agencies working directly with clients in foreclosure, and those advocating for underwater homeowners.

The following themes emerged during these discussions:

- **There are FREE and sufficient programs available**. Free housing counseling and legal services for distressed homeowners facing financial hardship or possible foreclosure are available through the State Foreclosure Fairness Program. In addition, service providers indicated there are sufficient loan modification programs applicable to a wide range of loans, including GSE, PLS and mortgage-backed securities. And, loan modifications are not limited to one-time occurrences; they may be granted for each separate hardship.

- **There remain barriers to accessing counseling and legal services**. Although there are free counseling and legal services available, agency staff indicate they believe homeowners may not know where and when to access such services. Additionally, given the shame that is often involved around financial distress, homeowners may be compelled to privately seek inappropriate, fee-for-service, or even fraudulent help. Scammers are prevalent, and may take advantage of homeowners who are unclear where to access the legitimate help they need. Navigating misleading information is difficult for homeowners already facing a high level of stress, and who may be facing any variety of obstacles to housing stability, including unemployment, divorce, a medical crisis, or language/cultural barriers.

- **There are unmet Service Needs for at Risk Homeowners.** Housing counselors and legal services staff we spoke with, indicated they are working with more and more homeowners at risk or in foreclosure who have additional service needs that they are not trained or equipped to address. These service needs include: financial assistance/management services, mental health services, mortgage or rental assistance, home repair, utility bill assistance, etc. Staff indicated they are unsure where to refer homeowners to obtain needed services and whether there are adequate services to meet the need that exists. Homeowners who have inadequate or unstable income to support a loan modification were noted as in particular need of assistance. Resources may not be available to assist the range of homeowners who are in pre or post foreclosure.

- **Not all households can or will choose to be assisted.** Households that have inadequate or unstable income to support a loan will likely not receive a loan modification. Programs do employ underwriting standards, both for the household's benefit and to protect against program losses. Many households withdraw from the process, for any variety of personal reasons.

The following chart provides an overview of current programs assisting low-income homeowners at risk of foreclosure. **Information on numbers of households served and available funding is limited** and is included, when available. Proposals provided by Professor Hockett were not found to be currently serving at-risk homeowners. They have been included separately for reference.

Existing Programs to assist low-income homeowners at risk of foreclosure					
Program	**Who Administers**	**Type**	**What it Does**	**Who's Eligible/Loan Type/ Income level of Household/#'s served**	**Program Funding Available**
Foreclosure Fairness Act (FFA)	State (DOC) Agencies providing services in Seattle include: El Centro De La Raza, HomeSight, Solid Ground, NW Justice Project, Washington State Housing Finance Commission	Mediation Free Housing Counsel-ing and Legal Services Assistance	Gives homeowners the right to speak directly with a lender representative who has authority to make decisions about their loan at mediation. If an eligible homeowner is referred to mediation by an attorney or housing counselor, the foreclosure process must stop until mediation is completed. Provides free housing counseling and/or legal services to assist in meet and confer, mediation or other negotiations or legal action with lenders/servicers.	•Loans except for those generated by institutions exempted from FFA are covered. Federally Insured Depository Institutions are exempt from FFA if they were not a beneficiary of deeds of trust in more than 250 trustee sales of owner-occupied residential real properties during the preceding calendar year •Washington State residents regardless of income. # served: 678 Seattle residents sought assistance through the FFA	Program is funded through fees paid by mortgage lenders (beneficiaries) Beneficiaries are required to pay $250 fee into the FFA fund for each Notice of Default issued to an owner occupied residential property.

Program	Who Administers	Type	What it Does	Who's Eligible/Loan Type/ Income level of Household/#'s served	Program Funding Available
Streamlined Modifica-tion Initiative	Federal	Loan Modifica-tion	Effective July 1, 2013, the Federal Housing Finance Agency announced that Fannie Mae and Freddie Mac will be required to allow loan modifications to all borrowers with loans owned or guaranteed by Fannie or Freddie.	•Borrowers with loan owned or guaranteed by Fannie/Freddie. •Borrower must be at least 90 days delinquent. • Must have a first-lien mortgage at least twelve-months old. •The current loan-to-value (LTV) ratio must be greater than 80%.	No Program Limit
Making Home Affordable - Home Affordable Refinance Program (HARP)	Federal	Refinance	If homeowner is not behind on mortgage payments but has been unable to get traditional refinancing because of a decline in home values, homeowner may be eligible to refinance through the Home Affordable Refinance Program (HARP). HARP is designed to help with a more affordable, more stable mortgage. HARP refinance loans require a loan application and underwriting process, and refinance fees will apply.	•The mortgage must be owned or guaranteed by Freddie Mac or Fannie Mae. •The mortgage must have been sold to Fannie Mae or Freddie Mac on or before May 31, 2009. •The mortgage cannot have been refinanced under HARP previously unless it is a Fannie Mae loan that was refinanced under HARP from March-May, 2009. •The current loan-to-value (LTV) ratio must be greater than 80%. •The borrower must be current on the mortgage at the time of the refinance, with a good payment history in the past 12 months.	No Program Limit

Program	Who Administers	Type	What it Does	Who's Eligible/Loan Type/ Income level of Household/#'s served	Program Funding Available
Making Home Affordable - Home Affordable Modification Program (HAMP)	Federal	Loan Modification	If homeowner is not unemployed, but still struggling to make mortgage payments, they may be eligible for the Home Affordable Modification Program (HAMP®). HAMP may lower monthly mortgage payments in order to make them more affordable and sustainable for the long-term.	• All loan types eligible. •Mortgage must be obtained on or before January 1, 2009.identified by the program. •Owe up to $729,750 on primary residence or single unit rental property •Owe up to $934,200 on a 2-unit rental property; $1,129,250 on a 3-unit rental property; or $1,403,400 on a 4-unit rental property •The property has not been condemned •A financial hardship exists and homeowner is either delinquent or in danger of falling behind on mortgage payments (non-owner occupants must be delinquent in order to qualify). •Sufficient, documented income to support a modified payment.	No Program Limit
Making Home Affordable – Principal Reduction Alternative	Federal	Principal Reduction	If home is currently worth significantly less than is owed on it, this program works to encourage mortgage servicers and investors to reduce the amount owed on the home.	•Mortgage may not be owned or guaranteed by Fannie Mae or Freddie Mac. Otherwise all other loans eligible. •Homeowner owes more than home is worth. •House is primary residence. •Borrower obtained mortgage on or before January 1, 2009. •Borrower's mortgage payment is more than 31 percent of your gross (pre-tax) monthly income. •Borrower owes up to $729,750 on your 1st mortgage. •Borrower has a financial hardship and are either delinquent or in danger of falling behind. •Borrower has sufficient, documented income to support the modified payment.	No Program Limit

Program	Who Administers	Type	What it Does	Who's Eligible/Loan Type/ Income level of Household/#'s served	Program Funding Available
Making Home Affordable – Unemploy-ment Program (UP)	Federal	Loan Modifica-tion*	If homeowner is unemployed and depending on the situation, MHA's Home Affordable Unemployment Program (UP) may reduce mortgage payments to 31 percent of income or suspend them altogether for 12 months or more. *Homeowners will be evaluated for a HAMP mortgage modification at the end of the UP forbearance period if it is available at that time.	•Borrower must be unemployed and eligible for unemployment benefits. •Mortgages held by Fannie Mae and Freddie Mac not currently eligible (as have own arrangements for unemployed homeowners) •Borrower must occupy the house as primary residence. •Borrower must not have previously received a HAMP modification. • Borrower obtained mortgage on or before January 1, 2009. •Borrower owes up to $729,750 on home.	No Program Limit
Home Affordable Foreclosure Alternatives (HAFA)	Federal	Short Sale/Deed in Lieu	Assures discharge of deficiency and provides relocation assistance	•No stated loan type exclusions have been identified by the program •Must have a documented financial hardship. •Must have not purchased a new house within the last 12 months. •First mortgage is less than $729,750. •Obtained mortgage on or before January 1, 2009. •Must not have been convicted within the last 10 years of felony larceny, theft, fraud, forgery, money laundering or tax evasion in connection with a mortgage or real estate transaction.	No Program Limit

Program	Who Administers	Type	What it Does	Who's Eligible/Loan Type/ Income level of Household/#'s served	Program Funding Available
FHA Refinance for Borrowers with Negative Equity (FHA Short Refinance)	Federal	Refinance /Principal Reduction	For homeowners who are current on their mortgage payments but who are underwater, participating lenders will be required to reduce the amount owed on the first mortgage to no more than 97.75 percent of home's current value.	•Mortgage may not be owned or guaranteed by FHA, VA or USDA. No other restrictions have been identified. •Must owe more than home is worth. •Must be current on mortgage payments. •House is occupied as primary residence. •Must be eligible for new loan under standard FHA underwriting requirements. •Total debt does not exceed 50 percent of monthly gross income.	No Program Limit
Ocwen Settlement, Big 5 Settlement	Lenders, can be used in mediations	Loan Refinance; Principal Reduct-ions	$2 billion agreement between Ocwen, the Consumer Financial Protection Bureau and 49 states to settle multiple violations of federal consumer financial laws.	Loans serviced by Ocwen, Bank of America Corporation, JPMorgan Chase & Co., Wells Fargo & Company, Citigroup, Inc., and Ally Financial, Inc. (formerly GMAC) are covered. Fannie and Freddie loans are excluded per FHFA guidance.	$49 million in principal reduction; over $3.6 million in cash payments to borrowers
National Mortgage Settlement – Washington State Program Grants					
HomeSight Rescue Loan Fund	HomeSight	Forgivable Loans	Provides up to $30,000 in foreclosure assistance loans to households facing foreclosure.	Generally available to households who aren't eligible for other assistance or that have exhausted other measures. 0% interest for households up to 80% AMI; 2% above 80% AMI. Loans are forgivable if there are no net proceeds upon sale of the home. 12 Seattle homeowners have received rescue loans (Of the 12 loans, six were made to households above 80% AMI and six to those below)	$600,000

Program	Who Administers	Type	What it Does	Who's Eligible/Loan Type/ Income level of Household/#'s served	Program Funding Available
Legal Foundation of Washington	Statewide	Legal Aid	Legal Assistance to households facing foreclosure	Representing agency determines program eligibility and best course of representation. Funds legal representation for households facing foreclosure throughout the state, including Northwest Justice Project.	$13,053,044
El Centro de la Raza	Seattle + King, Pierce and SnoCo	Housing Counseling	2 FT staff are dedicated to education and counseling services at no cost to Latino and other homeowners and victims of foreclosure. Funds support Latino borrowers and other households facing foreclosure with assistance seeking loan modifications, principal reductions and refinancing.	Agency determines best course of loan modification or support for all loans.	$600,000
Lifelong AIDS Alliance/ Solid Ground	South King + 13 counties	Housing Vouchers for post-foreclosure households	Provides 300 health-compromised individuals/families with case management, mortgage or rental vouchers and enriched services for up to 10 months with access to primary care	Households experiencing foreclosure, up to 50% AMI with chronic special health needs. Program does not state any precluded loan types.	$2,000,000
City of Seattle Funded Program					
Foreclosure Prevention Pilot	Urban League	Revolving Stabilization Loan Fund	Urban League combines stabilization loans (up to $5,000/0% interest/deferred for 30 years) with pre-foreclosure counseling and repayment plans to help low-income families in danger of losing their home.	Seattle households whose income must be below 80 percent of area median income. # served: 38 loans have been made. $142,000 in loans disbursed.	$210,000 $60,914 remaining. *May not reflect recently revolved funds.

As part of the review of new and existing programs, the IDT explored principal reduction/buyback models in discussions with program administrators at two different national programs, described below. Both have generated impact, but face replication barriers tied to funding, scale, market recovery and potential legal issues.

New Programs Implemented that include Principal Reduction/Buyback					
Program	**Who Administers**	**Type**	**What it Does**	**Who's Eligible/Loan Type/ Income level of Household**	**Program Mechanics**
Oregon Loan Refinancing Assistance Pilot Project (LRAPP) Program)	Oregon Department of Housing and Community Services (OHCS) and Further Development LLC	Refinance/ Principal Reduction	Through LRAPP, Further Development presents short sale offers to private lenders. The home is purchased by Further Development (who originates a new mortgage) and simultaneously resold to the household. The new loan is assigned to the State of Oregon and serviced by Bank of Siuslaw in Oregon. Loans are subsequently resold, revolving funds back into the program.	Eligible households may earn up to 150% of State median income and need not be current on mortgage. The household must be underwater, show hardship and must be able to meet standard loan ratios. All loan types are eligible. Fannie Mae and Freddie Mac have participated intermittently on case by case basis.	The program is entirely market-based and was structured to pay 90% of the market value of the loan to the lender (more than previously could be recouped through foreclosure or short sale) with the loan resold at 100% of its current value. (This includes a 12% markup the state of Oregon adds to the re-sell price.) Loans are pegged at a 6% interest rate. Participants have received an average principal reduction of $103,000 with an average monthly mortgage payment reduction of $544. Roughly 32% of program applications resulted in loan modifications.

LRAPP Summary:
In 2010, the US Treasury allocated $7.6 billion to the 18 states hardest hit by the foreclosure crisis. Washington State did not receive any funds. Oregon received $220 million and allocated $12 million to their Oregon Department of Housing and Community Services (OHCS) which named private entity Further Development LLC its program administrator to launch a revolving loan fund to assist underwater homeowners

also facing financial hardship.

The program was designed to serve 330 households with $60 million ($12 million revolving annually over 5 years). The program is currently operating in 5 counties of Oregon: Deschutes, Jackson, Jefferson, Crook and Josephine.

118 loans have closed as of February 2014. Due to changed market conditions, the program hopes to assist 200 households. Further Development reports that FHA has backed and is participating in this program. To date, Fannie/Freddie Mac have declined to officially participate in this program by authorizing short sales. Negotiations are underway with Fannie/Freddie with an endorsement expected in the near future. All loan types except Fannie/Freddie Mac are included in this program.

Challenges:
Most lenders require an "arms-length" affidavit to prevent fraudulent short-sale swaps. OR recently passed state legislation to make it illegal to require such affidavits. A legislative fix could be required if this program were to be replicated in another state. This program is highly capital-intensive and required significant start-up capital. It also was launched in a declining real estate market. Program administrators have noted that there is no longer any compelling reason for lenders to short sale in areas of rapid appreciation experiencing bidding wars.

Program	Who Administers	Type	What it Does	Who's Eligible/Loan Type/ Income level of Household	Program Mechanics
Stabilizing Urban Neighbor-hoods (SUN) Initiative	Boston Community Capital	Refinance/ Principal Reduction	The SUN initiative is operated by Boston Community Capital, a CDFI, and like Oregon's LRAPP, is a principal reduction/buyback program targeted to homeowners facing foreclosure, and that have income to support payments on the current fair market value of their home. SUN also purchases the home from the lender, re-sells to the homeowner with mortgages that are on average 38 percent less per month.	Massachusetts or Maryland residents who are late on their payments or in foreclosure, and have a stable and predictable income that can support a mortgage at current rates. There are no income restrictions for this program. All loan types, except those held by Fannie Mae and Freddie Mac are eligible for program.	10% of inquiries have resulted in loans, as strong program underwriting standards are employed. Funds are borrowed at 4 ½ to 5%. Interest rate to homeowner is 6.375%. SUN has invested $5 million in a loan loss reserve.

Boston SUN Summary:
SUN is an investor/investment-driven program. $70 million in funding was raised from foundations and private investors to capitalize this program. $35 million has recently been recapitalized. SUN has a shared appreciation model which gives Boston Community Capital a portion of any appreciation on the home. The program is structured to receive a competitive return on investment for the investors. Thus, underwriting standards are stringent and they describe themselves as a program of last resort.

400 households have received loans since SUN's 2009 program launch.

While Oregon cited rebounding markets/less motivated lenders as a challenge, SUN reports that the short sale/foreclosure process in Massachusetts is by comparison quite costly to lenders, tying up transactions for as much as 450 days. As a result, lenders are motivated to participate.

Challenges:
Boston's SUN COO, like their Oregon counterparts, also emphasized the importance of enabling legislation that doesn't restrict against arms-length transactions. They were successful in passing legislation in Massachusetts and most recently in Maryland. However, according to a recent article in the New York Times, Fannie Mae and Freddie Mac have declined to participate in the SUN program as there is a belief that there are other existing programs to assist homeowners at risk of foreclosure and concern that the SUN program might encourage more homeowners to participate in strategic defaults on their mortgages.

Programs Proposed by Professor Hockett

Program	Key Aspects of Program	Who's Eligible/Loan Type/ Legal and Financial Issues
Lease Swap Strategy:	This proposed program is premised on a strategy of lease agreements made between two underwater homeowners (delinquent but not yet in foreclosure) who would be required to exchange homes and demonstrate swapped ownership in an attempt to circumvent a Chapter 13 bankruptcy exclusion that prohibits principal reduction on loans that exceed home values on principal residences. To date, we have found no information that confirms this program has actually been implemented.	Types of homeowners and types of mortgage loans assisted by program: UNKNOWN. Legal/Financial issues: SEE MEMO UNDER SEPARATE COVER. How program is funded: UNKNOWN. # of homeowners served: UNKNOWN.

Eminent Domain Program:	This proposed program would allow the City to "take" underwater loans at fair market value, backed by partner investors who would finance the strategy, re-set the mortgages, reduce the principal and recoup value on performing non-Freddie/Fannie loans for homeowners (who must still be able to demonstrate the financial ability to carry a mortgage) and provide return to the backing investors. The City of Richmond adopted a plan to implement an eminent domain program but has yet to move forward on actual implementation.	Types of homeowners and types of mortgage loans assisted by program: UNKNOWN. Legal/Financial issues: SEE MEMO UNDER SEPARATE COVER. How program is funded: UNKNOWN. # of homeowners served: UNDETERMINED.
Municipal Land Bank Strategy:	This proposed strategy is a **post-foreclosure**, eminent domain tool used with already defaulted/foreclosed loans to seize/rehab severely blighted and abandoned properties, with some nested assumptions made about the potential for a lease-own arrangement with the original owner who was foreclosed on. The municipalities reportedly using this strategy were Flint, Michigan; Cleveland, Ohio; Chicago, Illinois and Utica, NY; all of which are areas experiencing significant blight and which have fledgling programmatic efforts underway with stated purposes of economic revitalization/development versus foreclosure prevention. OH currently provides acquisition loans to Homestead Community Land Trust, which, as a partner with the National Community Stabilization Trust, receives first notice on foreclosed properties prior to them going to market. The land trust rehabs the properties and keeps them affordable to low-income buyers in perpetuity.	Post-foreclosure program proposal.

FINDINGS:

AREAS EXPERIENCING FORECLOSURES AND RACE AND SOCIAL JUSTICE IMPLICATIONS

As shown earlier in this report, there are some areas in the City that have been more heavily impacted by foreclosures than others. Over the last 3 or more years, homeowners in Beacon Hill, Central District, West Seattle, South Park, and portions of Southeast Seattle have received comparatively high numbers of Notice of Trustee Sales (NOTS). Homeowners in some of these same areas also had underwater mortgages and were seriously delinquent on mortgage payments at the highest rates in Seattle. Although we do not have systematic data that directly links foreclosures with specific income levels or race and ethnicity, we do have data related to race and ethnicity, income levels, and household sizes for these areas from the 2008-2012 American Community Survey and 2010 Census.

These data indicate that the demographic and socioeconomic characteristics of households living in owner-occupied housing in these neighborhoods are different from the characteristics of households in owner-occupied housing in the city as a whole. Compared to owner-households in the city as a whole:

- Owner households in South Park, Beacon Hill, Southeast Seattle and West Seattle/Delridge are more likely to be very low-income households (below $50,000 Annual Median Income);
- Owner households in Southeast Seattle, Beacon Hill, Central District, South Park, and—to a lesser extent—West Seattle (Delridge and Highpoint) are more likely to have a householder who is a person of color;
- Owner households in South Park, Southeast Seattle, West Seattle/Delridge and to a lesser extent Beacon Hill, Central District, and West Seattle/Highpoint are more likely to be large households (3 or more people). See Appendix 2, 3, and 4 for this data.

Available data shows that agencies providing housing counseling or legal services to Seattle residents at risk of foreclosure are serving a large percentage of low income clients. In addition, approximately a quarter to over sixty percent of clients receiving services from these agencies are persons of color. The amount of data collected to date is small and is therefore anecdotal, but it affirms that low-income, persons of color are seeking services to assist with potential home foreclosures. Finally, public testimony provided at Council committee meetings on foreclosures strongly asserted that low-income, persons of color have been impacted and are likely continuing to be impacted by foreclosures.

Given this information, staff has reviewed the RSJI toolkit as we have evaluated potential program options that could be implemented. Any additional efforts by the City to assist homeowners who are at risk of foreclosure should include specific actions targeted to the areas of the City most impacted and include low-income households with householders who are persons of color.

EXISTING PROGRAMS:

Foreclosure Fairness Act and Free Counseling and Legal Services

As previously discussed, the Foreclosure Fairness Act (FFA) which includes a mandatory mediation process **can** and **has** assisted some homeowners who are at risk of foreclosure in their efforts to obtain an affordable mortgage payment plan and to remain in their homes. In addition, this process does assist some homeowners, particularly those who do not have adequate income to sustain a mortgage payment, achieve an agreement that allows the homeowner to leave their home on beneficial terms. The Foreclosure Fairness Program provides free housing counseling and/or legal services to assist at risk homeowners through the FFA process. However, the FFA's mandatory mediation process is not an appropriate tool and will not work for all homeowners for a variety of reasons.

The FFA process takes time and skilled counselors/lawyers to achieve a positive outcome for the homeowner. Legal action sometimes must be threatened or pursued when lenders are unwilling to negotiate a fair modification in the mediation process. Lili Sotelo from the Northwest Justice Project and Marc Cote from Parkview Services report that their staff have and are able to obtain successful loan modifications for homeowners with ***all types of loans*** – including private label securitized (PLS) loans. Other agency staff report that PLS loans can be more difficult to deal with and provide less flexibility in terms of options for a homeowner retaining their homes. Housing counselors and lawyers indicate that there are many loan modification programs available to assist at risk homeowners. As the summary of existing programs on pages 11-15 indicates, federal loan modifications programs such as HAMP PRA, HAMP unemployment and state and federal settlement agreements such as Ocwen, and the National Mortgage Settlement can be used to obtain modifications of all loan types, including PLS. A number of the available loan programs or settlement agreements also include principal reduction, though not all homeowners who request principal reduction are provided this as part of their negotiated loan modification.

One of the key points we heard from housing counselors, the Attorney General's office and legal services/advocates, is that a homeowner who attempts to negotiate a loan modification with a lender, without the assistance of a legitimate and ***skilled*** housing counselor/attorney, is UNLIKELY to achieve a loan modification or other outcome that is in the best interest of such homeowner. These staff report that they believe there are many homeowners at risk or in foreclosure who may not know who to contact to get appropriate help and when to seek such assistance. In addition, there are known scammers who are preying on homeowners, promising assistance for which they charge high fees -- that frequently do not achieve a good result for the homeowner. Clear, easily accessible information about ***the free, legitimate, and skilled*** housing counseling and legal services provided under the Foreclosure Fairness Act could provide protection from such scammers for vulnerable, at risk homeowners.

The State has implemented limited efforts to educate homeowners in the Seattle area in the past. It has been suggested that more needs to be done and that the City could play an important role in such efforts. Efforts could be targeted to the areas in the City that have experienced comparatively high levels of NOTS, have the highest levels of underwater and seriously delinquent mortgages, and higher

percentages of low-income households with householders who are persons of color, as demonstrated by the data included in this report.

Principal Reduction/Buyback Programs

Community advocates and Councilmembers have indicated interest in the Principal Reduction/ Buyback Programs operating in Oregon and Boston as another potential program for assisting homeowners at risk of foreclosure in Seattle. Although there are existing loan modification programs that include principal reduction that are offered by the federal government (HAMP PRA) and through several settlement agreements (Ocwen, and National Mortgage Settlement), there is no program similar to the Boston or Oregon program operating in the Seattle area.

The summary of existing programs includes information on the Oregon and Boston programs. These programs required ***significant up-front capital*** for implementation. The Oregon program received $12 million in federal Rescue Funds to implement its program. Boston raised $70 million in funds from private foundations, non-profits, and individuals to implement its program. A proposed "pilot program" in Seattle assisting 300 homes over three years could require in excess of $69 million, assuming an average (and likely low) purchase price of $230,000 (approximate maximum home price for low income household) per house. The City has not currently identified a plan for providing such resources.

In addition, program performance in Oregon and Boston, to date, is ***modest*** at best for these programs. In Oregon, 32% of the approved applications have had short sales approved and new mortgages originated. In Boston, 10% of homeowners who apply for the program actually obtain a new loan. Program administrators report this is primarily because these are voluntary programs and they must rely on a lender's willingness to accept a short sale offer on a home at risk of foreclosure. The Oregon program administrators indicated they initially had success in getting lenders of houses located in primarily rural and some suburban areas to agree to short sales. As the market has improved in some of these areas, the banks have become more reluctant to approve short sales. The reason for this is simple, in a hot housing market, a lender knows they can put a home on the market, after foreclosure, and achieve complete pay out of the outstanding mortgage amount (or more). In a short sale situation, a lender accepts less than the outstanding mortgage amount and must write off the difference. Boston has faced different challenges having to do with the unwillingness of Fannie Mae/Freddie Mac to participate in their program. Given Seattle's strong housing market, it would not be surprising to see hesitancy by lenders to participate in a pilot program, similar to what has been experienced with the Oregon program.

Finally, state laws in Massachusetts and Oregon had to be changed to permit implementation of their programs. These changes to the laws on short sales were necessitated because many banks have policies that require a buyer and seller in a short sale to sign an affidavit stating that the transaction is an arm's length transaction and that the owner will not remain in the home after the short sale is completed. The laws passed in Massachusetts and Oregon provide that when a non-profit is purchasing the home it is illegal for banks/lenders to include this type of clause or requirement that limits the owner's ability to stay in the house post-short sale. With these new laws in place, lenders can no longer require that a short sale be an arm's length transaction, and homeowners can remain in the home after the short sale closes. An arm's length transaction is generally characterized by: the absence of a relation between the buyer and seller; a selling price and other conditions that would prevail in an open market environment; transaction costs paid by the seller that are considered both reasonable and customary for the market in which the property is located; and the adherence to ethical standards of conduct by all parties involved in the HECM short sale transaction, including the borrowers (or the estate), mortgagees and appraisers. A non-arm's length transaction is considered higher risk to lenders and may include misrepresentation, unsupported values, straw borrowers, inflated sales prices, or excessive fees or disbursements.

If the City is interested in implementing a program similar to the Boston or Oregon model, we would likely want to pursue a change to Washington State law similar to the changes adopted in Massachusetts and Oregon.

IMPROVING SERVICE CONNECTIONS:

Housing counselors and legal services staff we spoke with indicated they are working with more and more homeowners who are either in foreclosure or at risk of being in foreclosure who have additional service needs beyond the staff's training or resources. These service needs include: case management, financial assistance/management services, mental health services, rental or mortgage assistance, home repair, utility bill assistance, etc. Staff indicated they are unsure where to refer homeowners to obtain these needed services and whether sufficient services are available.

It was suggested that the City could act as a convener of the various counseling and legal staff and other service providers to improve service referrals for these homeowners. Resources also could be allocated to provide such services, if funding is inadequate to meet the need.

PRE AND POST FORECLOSURE ASSISTANCE:

Housing counselors and legal services staff indicated that they have been challenged to know where to refer, in particular, those homeowners who have lost their homes to foreclosure and must move to a new living situation. Lifelong AIDS and Solid Ground provide post-foreclosure assistance, including: rental assistance, supportive services, & medical care for households with chronic, special health needs. In addition, the program originally provided similar services to homeowners who were in the foreclosure process, but lack of demand for this program caused Lifelong AIDS/Solid Ground to focus on assisting homeowners who were post-foreclosure. Depending on the need, it is possible this program could be modified to assist homeowners who are pre or post foreclosure.

The City could play a role in providing resources to implement this program change that would expand availability of additional needed services to homeowners who are not eligible for existing programs.

HOCKETT PROPOSED PROGRAMS:

Eminent Domain:

The eminent domain program is untested, to date, and has significant legal implications associated with it. In addition, there could also be very real implications for the City's real estate market, existing homeowners, and potential new homeowners. The Federal Housing Finance Agency (FHFA) that regulates Fannie Mae and Freddie Mac and 12 Federal Home Loan Banks has expressed serious concerns about the use of eminent domain to restructure existing financial contracts and has determined such use presents a clear threat to the safe and sound operations of Fannie Mae, Freddie Mac and the Federal Home Loan Banks.

In response to an eminent domain action to restructure mortgage loans, FHFA indicated in a statement dated August 8, 2013, that it may take any of the following steps: "initiate legal challenges to any local or state action that sanctions the use of eminent domain to restructure mortgage loan contracts that affect FHFA's regulated entities; act by order or by regulation to direct the regulated entities to limit, restrict or cease business activities within the jurisdiction of any state or local authority employing eminent domain to restructure mortgage loan contracts; or take such other actions as may be appropriate to respond to market uncertainty or increased costs created by any movement to put in place such programs."

The implications of this pronouncement are potentially serious for any community contemplating the use of eminent domain to seize mortgages. Most people who buy or refinance their homes rely on mortgages financed through Fannie Mae or Freddie Mac. These mortgages are offered at discounted interest rates due to the ability of these entities to bundle a huge volume of mortgages that meet standard underwriting criteria. If such financing were no longer available to Seattle residents, it could suppress the local housing market and thereby reduce the growth of the regional economy and city revenues. It would also likely make it more difficult for Seattle residents to purchase and/or refinance their homes because underwriting criteria would be tighter and interest rates would be higher. It is likely that all home buyers would need to make larger down payments which would make home ownership more costly and potentially unaffordable for some people. Since housing costs are passed along to residential tenants, higher mortgage costs could translate into higher rents.

On February 26, 2014, the U.S. House of Representatives passed (by 82%) H.R.1944. This bill states that any jurisdiction that uses eminent domain to seize mortgages would be denied access to federal economic development funds. Whether such a provision would become law is unknown at this time. The loss of conventional mortgage financing in Seattle would hurt all Seattle home buyers, homeowners desiring to refinance their mortgages, renters, the local economy generally, and even potentially the City's own financial condition.

The significant legal and financial implications of the eminent domain program, outweigh its potential benefits and does not make it a good program option to be pursued.

Lease Swap:
The Lease-Swap program is another untested program.

The logistical as well as legal issues associated with it makes it an unattractive candidate for further consideration.

RECOMMENDATIONS

1. Seattle Homeowner Stabilization Program

In the short term, the City could implement an intensive program that provides information, education and referral to services to connect as many homeowners at risk of foreclosure with free housing counseling and legal services, as well as other services, in an effort to help these homeowners stay in their homes. Additionally, for those homeowners who are at risk or are in foreclosure, assistance accessing case management, mortgage or rental assistance, mental health services, or other services is also needed. The following is a description of a program that could be implemented by the City to:

Goal:
To proactively connect low-income households who are at risk of foreclosure or in the foreclosure process with:

- Certified housing counselors and/or legal services attorneys who can help them navigate and achieve appropriate loan modification or other outcome beneficial to the homeowner through the Foreclosure Fairness Act.
- Financial Empowerment Services to address ongoing financial issues that put households at risk today and in future.
- Case management, mortgage assistance or rental assistance, and other services to address issues that pose challenges in terms of medical/financial/housing stability either pre or post foreclosure.

Outcomes:
The City and partner agencies will collect information on the number of households who access, participate in, or are contacted as part of the outreach and information activities and will provide this information to the City Council and Mayor by December 1, 2014.

The City and partner agencies will collect information on the number of low-income households who access the City funded pre-and post-foreclosure program providing case management, rental or mortgage assistance or other services and will provide this information to the City Council and Mayor by December 1, 2014.

Proposed Program Strategies:

- Work with community service agencies, state agencies (as appropriate), and advocacy groups, to create a public information, education, and outreach campaign, to assist in connecting at risk households to appropriate service providers in a timely, effective manner. This campaign should include specific efforts targeted to those areas in the City that have been particularly impacted by foreclosures and include higher percentages of low-income households and householders who are persons of color.

- Where possible, outreach efforts will include City-sponsored community forums, with agencies that provide information and direct connections between homeowners and service providers, including: housing counseling and legal services agencies (Parkview, El Centro De La Raza, HomeSight, Solid Ground, NW Justice Project, Lifelong AIDS); Financial Empowerment Center counselors; case management services, etc. Other person to person education efforts will be deployed, as feasible.
- Provide access to the City's Race and Social Justice Initiative Resources to housing counseling agencies, legal services agencies, and other service providers who have expressed interest in accessing such resources and completing further cultural competency training.
- Consider use of City communication tools (City website, Channel 21 Public Service Announcements, City Light/SPU utility bills) to assist in disseminating information to targeted homeowners.

Timeline:

Targeted education and outreach efforts would include intensive activities taking place over a 2 or 3 month time period – proposed for September, October, and November of 2014.

Target:

Homeowners in zip codes with the highest number of quarters with >20% of homes underwater and > 5% ≥ 90 day delinquency rates over last 3+ years (2011-2014), per Zillow negative equity/delinquency reports and highest Notice of Trustee Sales over last 3 years; and homeowners Citywide (for website and PSA's, if applicable).

Program and Community Partners:

Program partners could include: Parkview, El Centro De La Raza, HomeSight, Solid Ground, NW Justice Project, Lifelong AIDS, State Attorney General's Office, Department of Financial Institutions, and Department of Commerce. Partners would participate in community meetings and provide direct access, as appropriate, to services when referral made. Other community organizations will be encouraged to support and participate in the program.

Funding:

$150,000 would be provided to support the following activities:

- Outreach, information, and education efforts targeted to at risk homeowners. Activities to be funded could include: organizing and holding community meetings or other community outreach efforts; printed brochures/handouts, in multiple languages, that could be mailed or handed out; website development; translation services; interpreter training specifically on key mortgage-industry concepts and terms, etc.
- Pre- or post-foreclosure assistance to at risk homeowners. Activities to be funded could include: case management services, mortgage or rental assistance, etc.
- OH staff limited-term position to oversee implementation of program

Underlying premise of proposed program:

- ❖ State has established a mechanism through the Foreclosure Fairness Act (FFA) to help homeowners at risk of foreclosure achieve an affordable mortgage and stay in their homes or to negotiate other beneficial outcomes for the homeowner. The State provides free housing counseling and legal services to achieve these outcomes for homeowners using the FFA.
- ❖ For some homeowners, there are additional barriers to achieving a positive outcome that need to be addressed – medical, financial services, etc. that cannot be provided by housing counselors or legal services.
- ❖ For some homeowners, the relief offered by FFA may need to be supplemented with further assistance.
- ❖ For those homeowners who do not have sufficient income to sustain a mortgage, additional assistance is needed post-foreclosure to stabilize these households.
- ❖ The ability for the City to implement a loan refinance program similar to the Boston and Oregon programs faces financial, potential legal, and practical barriers that cannot be overcome in the short term, but could continue to be explored as an option (see Recommendation # 2 below).

Race and Social Justice Implications of Proposed Program:
The proposed program will specifically target areas in the City that include higher percentages of low-income households with householders who are persons of color and areas that have been more heavily impacted by foreclosures. The goal of this effort is to help as many of these homeowners at risk of foreclosure as possible to access assistance that could help them remain in their homes by obtaining affordable loan modifications. Homeowners who are able to remain in their homes have the greatest opportunity to rebuild or (build further) the equity in their homes providing greater wealth and stability over time, a very important race and social justice outcome for low-income householders who are persons of color.

2. Principal Reduction/Buyback Program

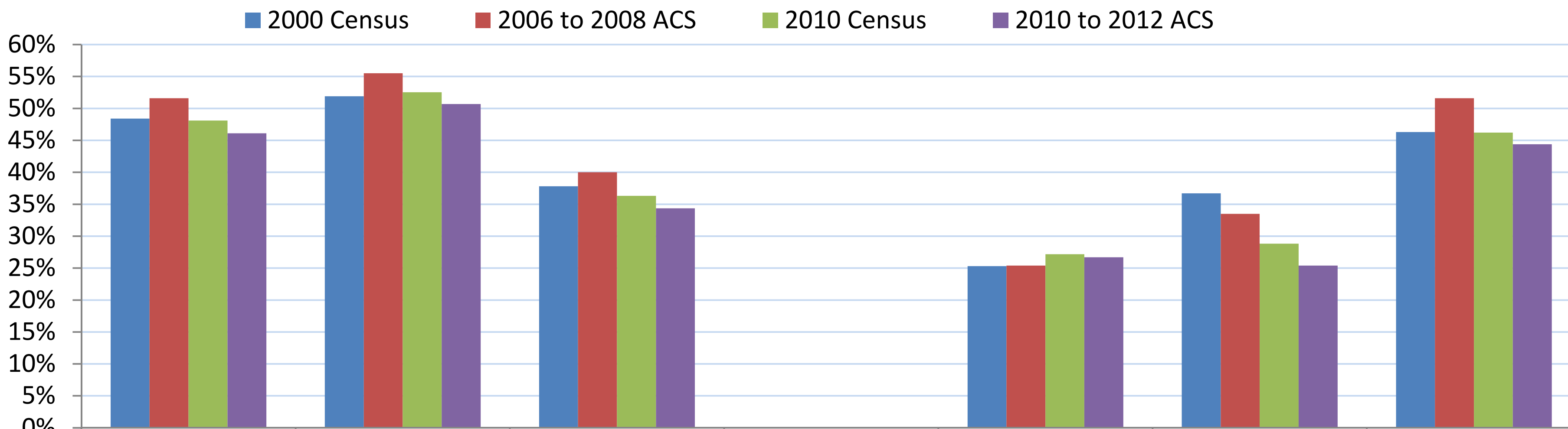
The City Council could explore the development of a Principal Reduction/Buyback Program similar to the Boston SUN or Oregon Loan Refinancing program. Significant funding would need to be identified to implement such a program. The Council could convene potential stakeholders to explore the development, implementation, and funding of such a program. In addition, development of state legislation would need to be considered to specifically authorize implementation of such a program, as was required in Massachusetts and Oregon. This legislation could be a part of the City's State Legislative Agenda.

3. Hockett Proposed Programs

The significant legal and financial implications of the eminent domain program, outweighs its potential benefits. Therefore, the IDT does not recommend pursuing this as a possible City program. In addition, the Lease-Swap program, another untested program, has logistical as well as legal issues associated with it and is also not recommended as possible City program.

Appendix 1

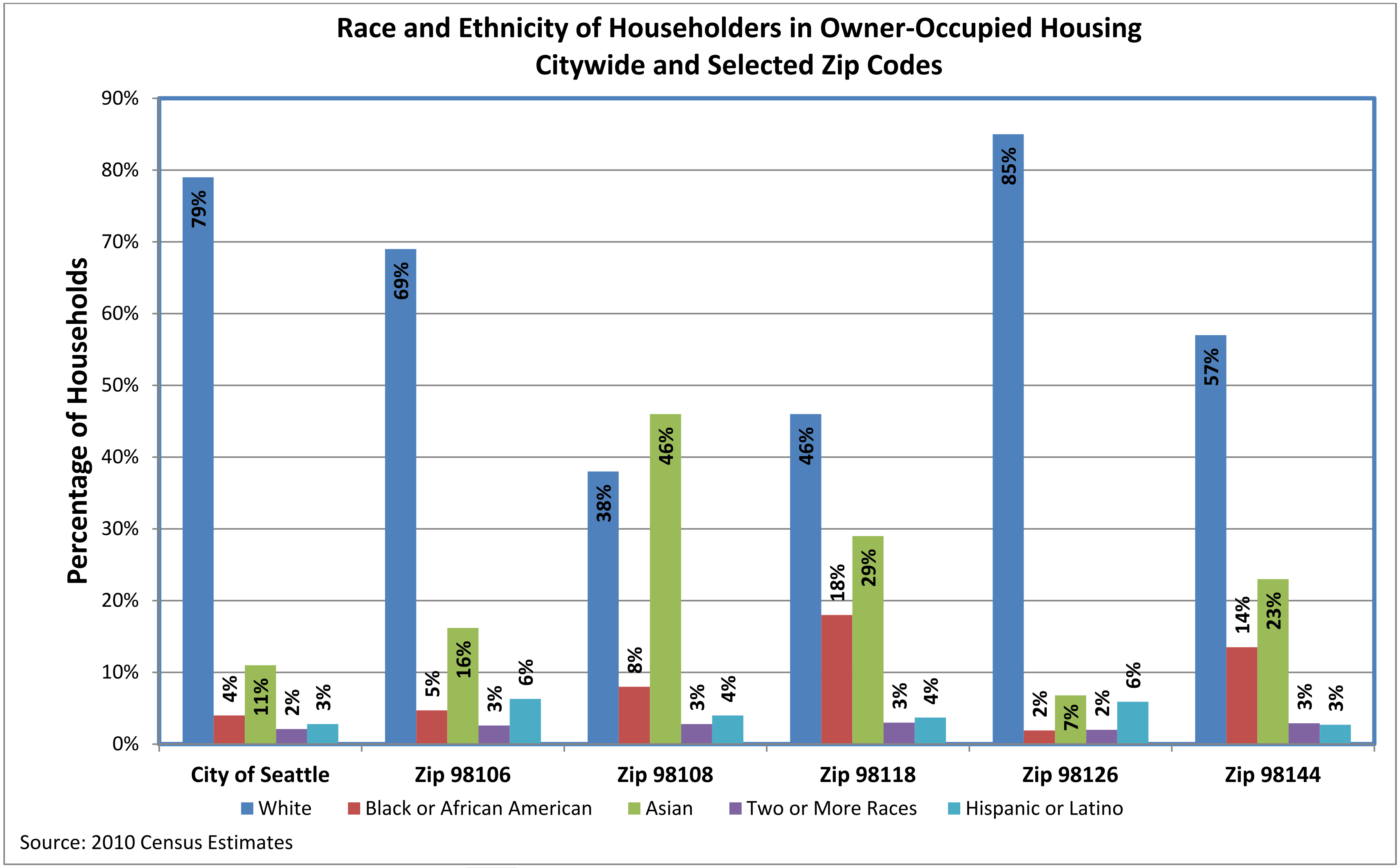
Homeownership Rates by Race and Ethnicity of Householder
2000 and 2010 Decennial Censuses and Selected Three-Year American Community Survey (ACS) Estimates
Seattle



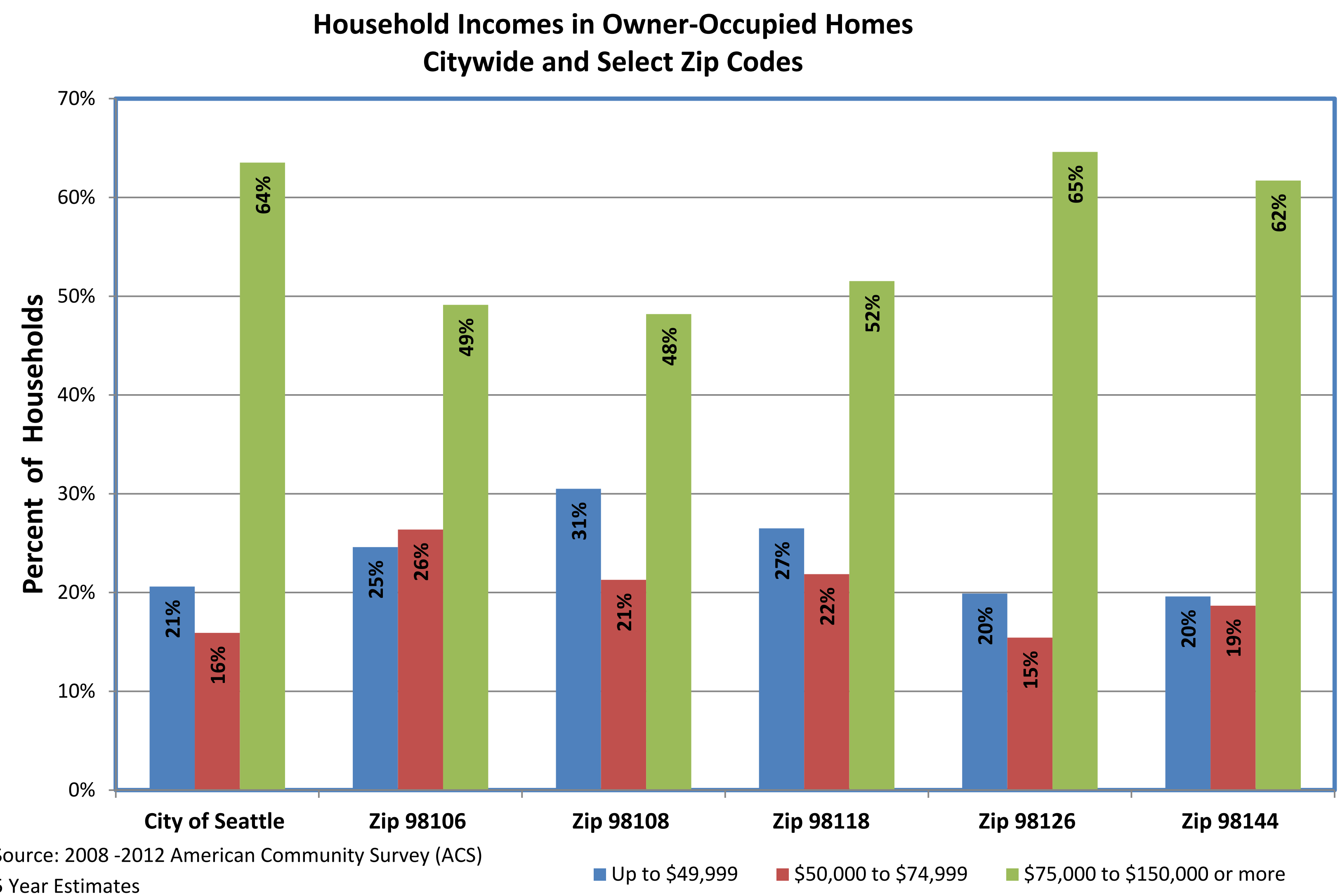
	All Householders	White race, not of Hispanic/Latino ethnicity	Householders of Color		Hispanic/Latino ethnicity (any race)	Black race, not of Hispanic/Latino ethnicity	Asian race, not of Hispanic/Latino ethnicity
2000 Census	48.4%	51.9%	37.8%		25.3%	36.7%	46.3%
2006 to 2008 ACS	51.6%	55.5%	40.0%		25.4%	33.5%	51.6%
2010 Census	48.1%	52.5%	36.3%		27.2%	28.8%	46.2%
2010 to 2012 ACS	46.1%	50.7%	34.4%		26.7%	25.4%	44.4%

Source: U.S. Census Bureau
Notes: ACS estimates are based on samples and carry margins of error. Estimates for some race and ethnicity combinations not available.

Appendix 2

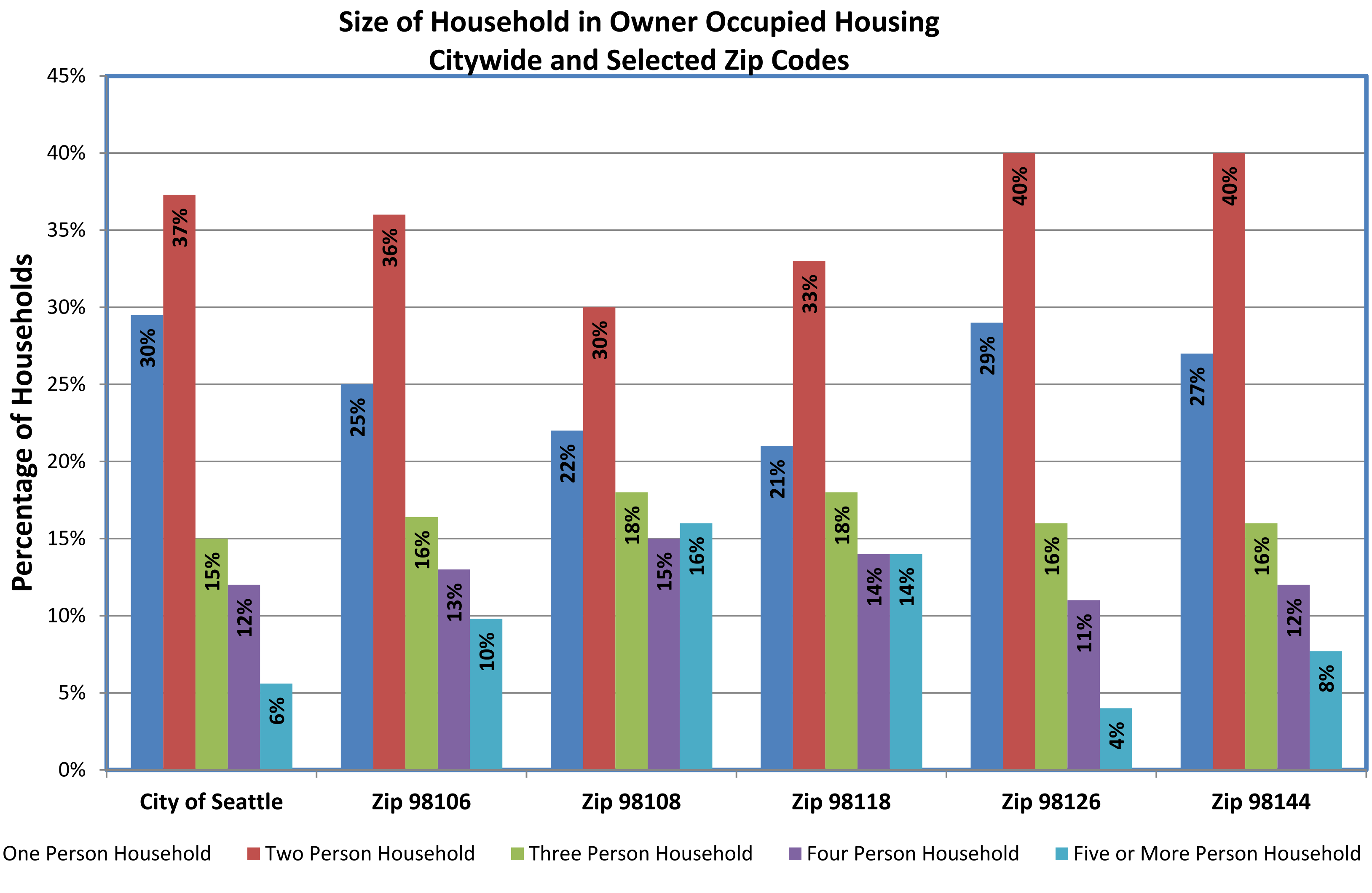

Race and Ethnicity of Householders in Owner-Occupied Housing
Citywide and Selected Zip Codes
Percentage of Households
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
79%
4%
11%
2%
3%
69%
5%
16%
3%
6%
38%
8%
46%
3%
4%
46%
18%
29%
3%
4%
85%
2%
7%
2%
6%
57%
14%
23%
3%
3%
City of Seattle
Zip 98106
Zip 98108
Zip 98118
Zip 98126
Zip 98144
White
Black or African American
Asian
Two or More Races
Hispanic or Latino
Source: 2010 Census Estimates

Appendix 3



Source: 2008 -2012 American Community Survey (ACS)
5 Year Estimates

Appendix 4



Source: 2010 Census Estimates