



***New Yorkers for Responsible Lending
Mortgage Working Group***

December 23, 2021

Via E-Mail

Senator Brian Kavanaugh
250 Broadway, Room 2011
New York, NY 10007

Assembly Member Steven Cymbrowitz
1800 Sheepshead Bay Road
Brooklyn, NY 11235

Re: Extending the Foreclosure and Eviction Stay

Dear Senator Kavanaugh and Assembly Member Cymbrowitz:

New Yorkers for Responsible Lending (NYRL) is a statewide coalition established over twenty years ago to promote access to fair and affordable financial services and the preservation of assets for all New Yorkers and their communities. NYRL's approximately 160 members include community development financial institutions, community-based organizations, affordable housing groups, legal services organizations, housing counseling agencies, advocates for senior citizens and community reinvestment, and fair lending and consumer advocacy groups.

NYRL's Mortgage Working Group believes that housing stability and public health will be promoted if the foreclosure and eviction stay, which is set to expire on January 15, 2022, is extended to April 15, 2022. With COVID-19 infections reaching new highs, the Legislature can protect vulnerable New Yorkers from the latest surge of cases by ensuring that they are not threatened with the loss of their homes until the Omicron wave passes. An extension would also permit homeowners to access the Homeowner Assistance Fund (HAF), which will only start accepting applications on January 3, 2022.

When the Legislature passed the COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020 (CEEFPFA), it recognized that "[s]tabilizing the housing situation for

tenants, landlords, and homeowners is to the mutual benefit of all New Yorkers and will help the state address the pandemic, protect public health, and set the stage for recovery.” (S. 9114.) Unnecessary evictions and foreclosures pose both a public health and housing crisis. The goal of the legislation was clear: to “avoid as many evictions and foreclosures as possible for people experiencing a financial hardship during the COVID-19 pandemic or who cannot move due to an increased risk of severe illness or death from COVID-19.” (*Id.*) To that end, CEEFPA stayed eviction and foreclosure proceedings until August 31, 2021, in cases where tenants and homeowners submitted a declaration stating that they experienced a COVID-related hardship. In August 2021, circumstances remained grim. The Delta variant was then driving another wave of cases. And although the Legislature had approved the Emergency Rental Assistance Program (ERAP) to pay rental arrears, hardly any of the funds had been distributed to tenants. The Legislature therefore extended the stay until January 15, 2022.

The dire realities of the Omicron variant demand a similar course of action. New York State recorded a record number of new COVID-19 cases on December 16, 2021, surpassing the previous record high set on January 14, 2021. Although it took over 11 months for New York State to eclipse the worst day of the pandemic, as measured by new cases, it took only one more day for New York State to report its next record high on December 17, 2021. The days since have brought more new record highs of single-day case counts. The timing could not be worse. Even before the arrival of the Omicron variant, New York State was already straining under a surge of COVID-19 cases caused by the Delta variant. On November 26, 2021—the same day that the World Health Organization declared Omicron a variant of concern—Governor Hochul issued an Executive Order permitting the Department of Health to limit non-essential, non-urgent procedures in hospital systems with limited capacity. Conditions have only deteriorated since then.

As compared to the summer Delta wave, New York faces a much more perilous path ahead. On August 31, 2021—the day that the foreclosure and eviction stay was last scheduled to lapse—the seven-day average of new Covid cases was 4,776 and the seven-day average of hospitalized patients was 2,249. As of December 21, 2021, the seven-day average of new Covid cases was more than five times greater: 28,924. The seven-day average of hospitalized Covid patients has nearly doubled to 4,452. Just as the Delta wave warranted an extension of the foreclosure and eviction stay this past summer, so too does the winter Omicron wave.

As in August 2021, New Yorkers are still waiting for much-needed relief to address pandemic-related arrears. According to US Census Pulse Household Survey data, New York State’s average mortgage delinquency rate between July and October 2021 was 10.75%, representing an average of 433,423 homeowners. In 2012, in the aftermath of the housing market crash, the delinquency rate was 7.7%. And from October 2012 through February 2020, right before the pandemic hit, that delinquency rate was 4.86% -- less than half of what it is today.¹ Although \$539 million was allocated for relief for New York homeowners through HAF, Treasury only approved New York State’s plan to distribute those funds on December 6, 2021. The program will

¹ For historical delinquency data, the Consumer Financial Protection Bureau (CFPB), Mortgage performance trends data provides state-based data by month, going back to 2008, <https://www.consumerfinance.gov/data-research/mortgage-performance-trends/>. For this analysis, we used the sum of two data sets provided within the Sept. 2021 published data covering Jan. 2008-March 2021: the first set includes 30-89 days delinquent, the second set includes 90+ days delinquent.

only start accepting applications on January 3, 2022.² There is no reasonable expectation that between January 3 and January 15 New York homeowners will have been able to obtain any HAF relief funds. Without the extension of CEEFPA, New York will see a wave of foreclosure filings starting on January 15, 2022.

Without more time, New Yorkers will face twin crises of foreclosure and Omicron. Homeowners who could otherwise remain in their homes with HAF funds will instead face the prospect of foreclosure at a time when Covid cases have never been higher. The promotion of public health and preservation of housing stability will best be served if the foreclosure and eviction stay mandated by CEEFPA is extended to April 15, 2021.

Please contact the co-chairs of NYRL's Mortgage Working Group with any questions about the foregoing: Jacob Inwald, at jinwald@lsnyc.org, Shabnam Faruki, at sfaruki@lsnyc.org, or Amy Gathings, at agathings@wnylc.net should you have any questions about this issue.

² The HAF application portal will remain open, initially, for 30 days. Under current HAF guidelines, homeowners who receive decisions on the last day that the portal remains open can expect a decision on any appeal, at the very latest, by April 15, 2021.