
MASSACHUSETTS MORTGAGE INDUSTRY REPORT CARD

A View of the Foreclosure Crisis from the Perspective of
Foreclosure Prevention Counselors

MACDC

MASSACHUSETTS ASSOCIATION OF COMMUNITY DEVELOPMENT CORPORATIONS

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I. Background

The foreclosure crisis in Massachusetts is worsening. Foreclosures statewide jumped in 2007 to 7,653, up 148% from the 3,086 foreclosures in 2006, and 2008 promises to be significantly worse than 2007. Foreclosures during the first six months of 2008 were 6,707, twice the amount during the first six months of 2007, and are on pace to exceed 13,000 in 2008. This deepening crisis mirrors what is happening nationwide.

In response, the federal government, state government and local nonprofit community agencies have significantly scaled up their efforts to provide counseling to troubled homeowners with the goal of helping them restructure or refinance their loan so they can avoid foreclosure. Congress has authorized \$360 million in spending on foreclosure prevention (in two separate pieces of legislation) through the National Foreclosure Mitigation Counseling Program (NFMC). Neighbor Works® America (NWA) was directed to administer the NFMC program and award funds to eligible organizations (HUD-approved counseling agencies, State Housing Finance Agencies, and NWA organizations), and awarded \$130 million to over 130 grantees nationwide so far. In its initial report to Congress, which measured activity through September 15, 2008, NWA reported that nearly \$55 million has been advanced to grantees and over 105,000 homeowners in all 50 states had been provided assistance. Massachusetts has received over \$3.8 million from NWA.

In Massachusetts, the Patrick Administration and the Legislature have provided funding to foreclosure prevention counseling efforts, as part of a broader effort to address the foreclosure crisis. Through funding provided by the state's recently approved foreclosure law, the Administration awarded \$2 million to support the creation of 10 regional foreclosure education centers, provide counseling for subprime mortgage applicants, and provide additional funding to existing first time homebuyer and mortgage foreclosure intervention and loss mitigation counseling programs. The Patrick Administration has also organized several events with non-profit and municipal partners; to date the Administration has sponsored 5 events with over 1,200 homeowners participating, where homeowners can come to a central location to meet with representatives from the major servicers in order to achieve loan modifications and other solutions.

At the local level, over 30 community-based nonprofit organizations are providing foreclosure counseling services, including many MACDC member organizations.

Despite these efforts, thousands of homeowners continue to lose their homes and there is widespread frustration among government officials and community leaders with the slow pace of loan modifications and other solutions. The high rate of foreclosures continues to cause a drop in home values and a weakening economy, perpetuating a downward cycle with more foreclosures.

II. Goals of the MACDC Mortgage Industry Report Card

MACDC undertook this report to help policy makers, industry leaders, and foreclosure counselors better understand what is happening at the local level. Specifically, The Massachusetts Mortgage Industry Report Card is intended to:

1. Demonstrate how the mortgage service industry as a whole is responding to homeowners who are receiving foreclosure prevention counseling;

2. Measure the performance of specific servicers against other servicers in Massachusetts in responding to homeowners in crisis in order to determine whether some companies are being more or less responsive;
3. Hear how practitioners on the front lines of the foreclosure crisis – those who devote their professional lives to working with homeowners – view the crisis, and give them a larger voice in the public discussion of these issues; and
4. Identify recommendations for how the industry could do a better job and what the Federal Government can do to ensure that the industry is more responsive.

III. National Data on Foreclosure Prevention Counseling Outcomes

The first major report on the National Foreclosure Mitigation Counseling Program (NFMC) was compiled by the Urban Institute (UI), under contract to NWA, and included an analysis of data submitted by the NWA grantees on August 1, 2008, covering the period between March 1 and June 30, 2008.

The NFMC Program divides outcomes into “positive”, “negative” or “intermediate” outcomes. A positive outcome (which can include a mortgage modification, refinancing, forbearance agreement or pre-foreclosure sale) is defined as “an outcome that allows a client to either remain in their home or possibly retain some of the equity they had in their property.” A negative outcome is defined as “a situation where a client will likely have to leave their home as in the case of foreclosure or bankruptcy, or if a client withdraws from counseling.” The definition of intermediate outcome is “the client is either still in counseling, has been referred to another group or agency, entered a debt management plan or had some other outcome”- with the vast majority of these being borrowers still receiving foreclosure counseling.

According to the NFMC national data, 13,500 households received foreclosure prevention counseling assistance. Based on an assessment of 9,400 households with known outcomes, 39% reported positive outcomes, 11% reported negative outcomes, and 50% reported intermediate outcomes. Positive outcomes are further broken down as follows:

- Homeowners who received mortgage modification or refinancing: 17%
- Homeowners who received other positive outcomes 22%

Additionally, the NFMC Report did include limited data on the outcomes for homeowners counseled in Massachusetts. According to the Report, of the 13,500 who received assistance and had outcomes reported nationwide, 301 households were in Massachusetts. Of these, 38.5% reported positive outcomes, 10.3% reported negative outcomes, and 51.2% received intermediate options. According to the NFMC Report, the percentage of Massachusetts households who fall into the three categories was very similar to the national percentages.

The NFMC Report also highlighted the considerable obstacles that counselors face in pursuing foreclosure prevention and mitigation.

1. The most common difficulty encountered by counselors nationally was obtaining a timely response from servicers. NFMC grantees noted that they sometimes had to wait 45 to 60 days for a response and “that loss mitigation departments seemed to be understaffed and overworked, documentation faxed or mailed to servicers was lost repeatedly and counselors had to send documentation multiple times, and counselors were connected to a different representative each time they called who proposed different solutions and requirements.”
2. Grantees also reported that servicers preferred repayment plans to other more sustainable solutions such as loan modifications. NFMC grantees also reported that servicers generally did not have a strong understanding of Pooling and Servicing Agreements which often caused delays.

Despite these obstacles, there is strong evidence that foreclosure counseling does improve outcomes for troubled homeowners. Whereas 39% of NFMC clients received a positive outcome the percentage of troubled homeowners overall who receive help is much lower. Indeed, according to a report on National Public Radio on November 11, “Regulators say about 3% of homeowners on the verge of foreclosure are currently getting meaningful help to stay in their homes.”

IV. MACDC Survey Data on Foreclosure Prevention Counseling Outcomes

MACDC compared the findings in its survey with the national data compiled by NWA. While not identical to the definitions in the NFMC report, MACDC’s survey on Massachusetts servicers also relied on foreclosure prevention counseling agencies to report on the proportion of homeowners in crisis who achieved successful outcomes in avoiding foreclosure, including loan modifications and other outcomes such as a pre-foreclosure sale or refinancing.

According to the MACDC Survey in Massachusetts of borrowers counseled during the first six months of 2008, based on an assessment of 10 servicers with a combined total of 1,143 homeowners receiving foreclosure prevention counseling:

- 24% percent of homeowners received successful loan modifications.
- 19% percent of homeowners achieved other successful outcomes to help them avoid foreclosure.

These results are comparable to those reported in the NFMC report. This is not surprising since many (albeit not all) of the survey respondents are also grantees of the NFMC.

MACDC’s survey respondents reported similar challenges as their NFMC colleagues. Many noted that it was difficult to get a response from servicers and that many companies were unwilling to modify loans in a way that would make them affordable over the long term. The survey results also demonstrate that different agencies can have radically different experiences with the same servicer company. For example, when counselors were asked to rate the performance of a specific company on a scale of 1 – 10, all ten companies received ratings across a wide range of scores. In fact, some companies received scores ranging from 1 to 10 or 1 to 9 and all companies had a range of at least five points. This indicates that servicers are still responding to homeowners on a fairly ad hoc and inconsistent basis- **there are no generally accepted industry standards for addressing loan modification requests.**

This data should be interpreted in the context of troubling findings made by Massachusetts Attorney General Martha Coakley, as reported in her testimony to the United States House Financial Services Committee on September 17, 2008. According to Attorney General Coakley, in the three months preceding her testimony, her office accessed data on the 144 loan modifications filed with the Registry of Deeds during this time period (this is a sample of total modifications, as some creditors do not record their loan modifications). The Attorney General concluded that the vast majority of the loan modifications approved by servicers “fail to provide a sustainable loan and thus fail to provide a meaningful solution to foreclosure.” Of these 144 loan modifications reviewed by the Attorney General, none of the modifications reduced the homeowners’ principal mortgage balance, and virtually none reduced the homeowners’ monthly payment. Her conclusion is that loan modifications in Massachusetts are resulting in loans that are not sustainable and not affordable.

In conclusion, both the national NFMC data and the MACDC data for Massachusetts show that homeowners in crisis, with the support of independent nonprofit counseling agencies, are achieving some success in convincing servicers to approve loan modifications and other measures to avoid foreclosure. Homeowners who receive counseling are clearly doing much better than those who do not. However, positive outcomes are still being achieved by fewer than half of the homeowners facing foreclosure and the process by which those outcomes are achieved is too slow, too ad hoc, and too inconsistent to address the larger housing and economic crisis.

V. Company Specific Results in Massachusetts

In September 2008, MACDC decided to conduct a survey of nonprofit counseling agencies in Massachusetts to learn more about their experience here (see Methodology in Appendix 1.) MACDC’s survey attempted to go beyond industry-wide analysis by comparing the performance of *specific* servicers to each other. This allows us to begin holding individual companies accountable for their performance, and identify which companies may provide models for best practices.

To obtain company specific data, MACDC asked survey respondents to report on the number of borrowers that their agency had counseled from that company, the number of loan modifications achieved and the number of other successful outcomes achieved. We also asked the counselors to rate the companies on a scale of 1 – 10.

We received sufficient data on 10 companies to develop a grade for them. The grading process reveals that there are some meaningful and important distinctions that can be drawn among the servicers. Based on the data obtained in our survey, Bank of America and Chase are clearly performing better than the other major servicers. They both received the highest ratings from counselors and had relatively high rates of loan modifications and successful outcomes. Both companies received an overall grade of “B-.” Both companies have also announced recently that they will be implementing large scale, systemic loan modification programs. Perhaps these programs will enable the banks to achieve higher levels of performance in the coming months and raise their grades to a “B” or even an “A.” With respect to Bank of America, several respondents noted that they had seen an encouraging change in Countrywide outcomes when BoA purchased Countrywide. At the other end of the spectrum, Saxon and GMAC are clearly the worst performers among the companies studied, with Saxon receiving an overall grade of “D,” and GMAC receiving a grade of “D+.” However, no servicers escaped criticism from counselors, and counselors indicated that all servicers had significant room for improvement. While our survey focused on the large national

companies, some counselors did note that local community banks tend to be the most responsive with working out troubled loans, and in fact a smaller proportion of their loans were the type of subprime loans that are the root cause of many foreclosures. The results of the survey are summarized in Table 1.

Table 1: Servicer Performance and Grades

Company	# of customers	% loan modifications	% of successful outcomes	average rating by counselors	Overall Grade
Bank of America/Countrywide	296	24%	49%	6.1	B-
JP Morgan Chase	117	26%	45%	5.9	B-
Litton	79	30%	51%	5.2	C+
AHMS (formerly Option One)	168	32%	40%	5.2	C
Wells Fargo	54	28%	43%	4.6	C
ASC	128	21%	47%	4.4	C-
Home Eq Servicing	71	21%	42%	4.3	C-
Washington Mutual	52	21%	29%	5.1	C-
GMAC/Homecomings Financial	98	15%	40%	4.2	D+
Saxon	80	15%	26%	4.2	D
Total Customers/average result	1143	24%	43%	4.9	

VI. Recommendations

Based on our research, MACDC offers the following recommendations:

1. Individual servicer companies should voluntarily participate in the Hope for Homeownership program, as well as in other federal initiatives that are established to facilitate sustainable and affordable loan modifications. To ensure broader participation, Congress should proceed to pass federal legislation that has been discussed in Washington, making such participation mandatory for the larger servicers. The requirements for participation would have to be worked out, such as whether a particular servicer should be required to participate (and thereby agree to write down the principal) for a certain number of loans or for a certain percentage of their loans. *This calls for action by the mortgage industry, and requires action by Congress.*
2. Individual servicers should establish and aggressively implement large scale, streamlined loan modification programs like those recently announced by Bank of America, JP Morgan Chase, and Citi. These programs should then be carefully monitored to make sure they are reaching the scale projected in the original announcements. *This calls for action by the mortgage industry.*

3. The Treasury Department should mandate that companies who benefit from the \$700 Billion Rescue Plan implement a temporary stay on foreclosures similar to the 90 day right to cure provision included in the new Massachusetts Foreclosure law. This will give the companies and the government time to implement more comprehensive loan modification programs. *This requires action by the U.S. Treasury Department.*
4. The Treasury Department should require the same companies to participate in the new Hope for Homeownership program established by Congress earlier this year, as well as in other federal initiatives that are established to facilitate sustainable and affordable loan modifications. *This requires action by the U.S. Treasury Department.*
5. The Treasury should partner with the Federal Deposit Insurance Company (FDIC) to adopt systematic and streamlined loan modification protocols that result in affordable mortgages for qualified homeowners, modeled after the FDIC's protocol for IndyMac Federal Bank. *This requires action by U.S. Treasury Department and FDIC.*
6. The State and Federal governments should continue to provide financial and technical support to nonprofit foreclosure counseling agencies in light of the strong evidence that such counseling is helping a significant number of homeowners avoid foreclosure. Going forward, all low and moderate income homebuyers should have access to independent homebuyer counseling. *This requires action by the Federal Government and the Commonwealth of Massachusetts.*
7. The federal government should implement tough new regulations for servicers that would hold them more accountable for their lending activities. Congress should also expand and strengthen the Community Reinvestment Act so that it applies to the entire financial services industry, not just banks who receive deposits. The CRA has been a very successful law that has enabled banks to make sound and sustainable mortgage loans to low and moderate income borrowers. Massachusetts recently adopted a CRA requirement for mortgage lenders and this law can serve as a national model for Congress. *This requires action by the Congress and the incoming Obama Administration.*
8. Neighbor Works® America should conduct an analysis that provides information on company specific performance nationally. While the MACDC data sample is large enough to draw preliminary conclusions on company specific performance in Massachusetts, it would be preferable to analyze a larger data set across the entire country. Such an analysis would be possible since all NFMC grantees are required to report this data. The data could be sorted and analyzed based on the servicer in question to determine whether some companies are achieving significantly higher rates of loan modifications and other successful outcomes. Additional data could be collected on the specifics of loan modifications that were approved, to gauge how sustainable and affordable these modifications were. MACDC recommends that Neighbor Works® America and the Urban Institute include this analysis in the next quarterly report to Congress. Such an analysis would help policy makers and others evaluate the success of new industry and federal initiatives and hold companies accountable to high levels of performance- and provide transparency on the impact of public dollars on this crisis. *This requires action by Neighbor Works America.*

Appendix 1: Methodology and List of Nonprofit Counseling Agencies Surveyed

In October and November of this year MACDC conducted a survey of a significant number of nonprofit foreclosure prevention counseling agencies in order to obtain information on how different servicers are responding to homeowners facing foreclosure and to the counselors who are helping them. The idea was to find out what practitioners on the front lines of the foreclosure crisis are experiencing and how they view different servicers.

First, MACDC contacted several nonprofit foreclosure counselors within our membership from around the State for input and feedback on the survey design and on the servicers we should ask counselors to evaluate. Based on this feedback, MACDC identified 12 servicers that the counseling agencies identified as among the most prevalent servicers in Massachusetts. We collected data from counselors on these 12 servicers. These twelve servicers, in alphabetical order, were:

Companies included in the Survey	
AHMS (formerly Option One)	Litton
ASC	Saxon Mortgage
Bank of America/ Countrywide	Washington Mutual
GMAC/ Homecomings Financial	Wachovia
Home Equity Servicing	Wells Fargo
JP Morgan/ Chase	Wilshire

We decided not to report the data on Wachovia and Wilshire because the total number of clients from those two servicers was less than 50 and we did not think the data sample was sufficient to draw fair conclusions. The remaining 10 servicers each had at least 50 total borrowers counseled by the survey respondents.

Second, MACDC designed the survey so that each counseling agency was asked to answer a series of questions about each of the 12 servicers listed above. We provided a space for comments on each servicer, as well as the opportunity to add any additional comments on other servicers.

For each of the servicers where the agency counseled borrowers, we asked respondents to answer 4 questions, as follows:

1. How many of this servicer's borrowers have you provided foreclosure prevention counseling to between January 1, 2008 and June 30, 2008?
2. How many of the above borrowers received successful loan modifications- using your judgment as to what constitutes a successful modification?
3. How many of the borrowers received other successful outcomes- using your judgment as to what constitutes a successful other outcome (this can include pre-foreclosure sale or short sale, deed-in-lieu or other outcome you consider to be successful)?

4. How would you rate the servicer overall, with 1 being the worst and 10 being the best (a servicer you believe is average in relation to other servicers would get a 5)? We are asking you to rate the servicer on its willingness and ability to successfully offer its borrowers assistance to avoid foreclosure. Take into account the servicer's cooperation and responsiveness in coming up with your organization's rating, but give the greatest weight to its success in working with you and with its borrowers and achieving positive outcomes.

Third, MACDC identified counseling agencies and contact people within those agencies to be surveyed. MACDC sent the survey to 35 agencies with the option to complete the survey in either of two formats: an online survey via Survey Monkey, or an Excel spreadsheet. Surveys were received from 18 nonprofit counseling agencies. When necessary, MACDC made follow up calls to confirm the data and to ensure that the respondents understood the questions and entered the data correctly.

Survey Respondents	
<ol style="list-style-type: none"> 1. Cambridge Neighborhood Housing Apartment Services, Cambridge 2. Chelsea Restoration Corporation, Chelsea 3. Coalition for a Better Acre, Lowell 4. Codman Square NDC, Boston 5. Dorchester Bay EDC, Boston 6. Housing Assistance Corporation, Hyannis 7. Lawrence Community Works, Lawrence 8. Massachusetts Affordable Housing Alliance, Boston 9. Metropolitan Boston Housing Partnership, Boston 	<ol style="list-style-type: none"> 10. Neighborworks Homeownership Center of Worcester, Worcester 11. NHS of the South Shore, Quincy 12. Quincy Community Action Program, Quincy 13. South Middlesex Opportunity Council, Framingham 14. Springfield NHS, Springfield 15. Twin Cities CDC, Fitchburg 16. Urban Edge, Boston 17. Western MA Foreclosure Prevention Center, Springfield and western counties 18. Valley CDC, Northampton

Fourth, MACDC tallied the data received. Among the 10 servicers, the counseling agencies collectively counseled 1,143 households, and this data was entered on a spreadsheet. MACDC aggregated the data for each of the servicers in three categories: first, the number and percentage of borrowers that received loan modifications; second, the number and percentage of borrowers that received successful outcomes, including loan modifications; and third, the average performance rating assigned by the counselors. We assigned a grade for each of these three categories, converted the grades to numerical values, and came up with a weighted average grade based on the following: 50% of the overall grade is based on the performance rating of the servicer, 25% is based on the percentage of borrowers receiving loan modifications, and 25% is based on the percentage of borrowers receiving loan modifications or any other successful outcome. This weighted average was then converted to a letter grade. Please see Table 1 for the results.