

# HERA

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## **FORECLOSED:**

### **THE BURDEN OF HOMEOWNERSHIP LOSS ON CITY OF OAKLAND AND ALAMEDA COUNTY RESIDENTS**

Housing and Economic Rights Advocates,  
California Reinvestment Coalition  
(December, 2007)

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# Introduction

This report was prepared to provide information to the public, service providers, government officials and others regarding the extent of predatory lending problems in Oakland and Alameda County, the types of problems homeowners are experiencing, key players in that predatory lending process locally, and the impact on homeowners' ability to keep their homes. The analysis includes an examination of foreclosure and mortgage lending data and homeowner stories to show the interplay between the two required stages of the formal, legal foreclosure process (Notices of Default and Notices of Trustee's Sale), home sales and lending patterns, and the resulting loss of homeownership for residents.

## Acknowledgements

This Report is a joint product of Housing and Economic Rights Advocates (HERA) and the California Reinvestment Coalition (CRC). Maeve Elise Brown of HERA was the primary drafter of the report. Kevin Stein of CRC conducted research on mortgage lending and provided assistance on the analysis and report editing. Heidi Li analyzed home lending data and prepared Home Mortgage Disclosure Act tables in the report. Urban Strategies Council provided mapping of foreclosure data for Oakland and Alameda County that appears in Appendix 1 of the report.

## Report Summary

From our data analysis and what we learned directly from homeowners, we found the following:

### **Foreclosure Levels In Alameda County And Oakland Have Reached A Historic High**

- Notices of Default in Alameda County rose dramatically in 2006, compared to preceding years, and dramatically once again in 2007
- Home value appreciation in the City of Oakland spurred high-risk mortgage lending from 2005-2006 by providing equity (or apparent equity) against which loans could continue to be made. Conversely, high-risk lending supported the appearance that home values were still rising.
- For Alameda County as a whole, recorded Notices of Default in the first ¾ of 2007 were 50% higher than for the entire year of 2006.
- Similarly, Notices of Trustee's Sale in Alameda County rose significantly in 2006 and spiked even higher in 2007; For Alameda County as a whole, in the first ¾ of 2007, the number of recorded Notices of Trustee's Sale is 126% higher than for the entire year of 2006.

### **Risky Mortgage Lending Products Flooded Alameda County, And Particularly Low and Moderate Income Parts of Oakland**

- High-cost and/or high-risk, adjustable rate mortgages in Oakland in 2004 and 2005 were concentrated in zip codes that are home to residents with limited financial resources. In other words, such loans were made to residents who could not afford either the cost or the risk.

- In the City of Oakland, 3 zip codes suffered the vast majority of all of the Notice of Default activity in 2006 and 2007. Out of a total of 1207 notices recorded in 2006, 1087 (90%) were in 94601, 94603 and 94605. Part of the Lower San Antonio and East Oakland neighborhoods are in these zip codes.
- In 2006, only 4 of Oakland's 12 zip codes had homes with Notices of Default recorded against them: 94601, 94602, 94603 and 94605.
- In 2007, the City of Oakland saw a 20% increase in Notices of Default in the first ¾ of the year as compared to the entire year of 2006. A total of 1507 Notices of Default were recorded on Oakland homes from January 1, 2007 to October 1, 2007.
- Out of the 1507 Notices of Default recorded on Oakland homes in the first ¾ of 2007, 58% have been in 3 zip codes: 94605, 94607 and 94621.
- Racial disparities are apparent in mortgage lending in Oakland. For example, in 2005 World Savings had 13.86% of the African-American mortgage market in Oakland compared to 5.12% of the White market. That is, in fact, one of the highest shares of any lender to any group in any of the jurisdictions in 2005. This means that a tremendous amount of Option ARMS were made to African-Americans in Oakland.
- Some groups of people of color in Oakland have received significantly fewer prime (lower-cost) loans from financial institutions. For example, in 2004, Washington Mutual had 6.20% of the mortgage market overall in the state and almost 7% of the market share in both Alameda County and Oakland. While it had 7.65% of the White mortgage market in Oakland, it made no loans to Pacific Islanders or Hawaiians at all and had only 3.8% of the Native American mortgage market in Oakland.<sup>1</sup>
- Home repair needs are a major reason why seniors seek a home refinance in the first place.

### **Homeowners And Homebuyers Are At A Disadvantage In The Mortgage Process, Relying On Professionals (Or People Claiming They Are Professionals) Who Are Not Always Honest**

- Homeowners are often misled by brokers about the terms of the mortgage contract that they are entering into (based on homeowner interviews and loan document review).
- Immigrant, Latino homebuyers have sometimes been victims of misrepresentation by real estate agents about the physical condition or permits of the property that they are buying. As a result, they end up overpaying for the home and owning a home that is worth less than its appraised value, (based on homeowner interviews and loan document review). Hand-in-hand with this is sometimes falsification of the appraisal itself to make the home appear to be worth more than it truly is.
- Seniors are particularly at risk for being on the receiving end of marketing of high-cost and/or high-risk mortgage products, including Option Adjustable Rate Mortgages (Option ARMS). Many are promised lower monthly payments without an explanation

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<sup>1</sup> Per 2000 and 2006 Census data, Asians went from 15.2% of Oakland's population in 2000 to 15.6% in 2006. Native Hawaiian/Pacific Islanders went from .5% to .7%, Latinos grew from 21.9% to 25.9%, and Native Americans grew from .5% to .9%. In this same time period, the White population grew to 34.1%, compared to 31.3% in 2000.

of the true nature of the mortgage, its overall expense, how quickly the monthly payments will rise, or its negative amortization element.

## Discussion

The City of Oakland and Alameda County have experienced some of the worst of what the American home purchase and refinance system has to offer. Residents have weathered the rise, fall and rise again of foreclosure rates over the last 15 years with the Savings and Loan scandal of the 1980s and the current subprime melt-down—a scandal in its own right—in the 2000s. Residents have been prey to a combination of factors in how the mortgage lending market has been structured and regulated which turned the market into the Wild, Wild West. Lenders have been able to sell mortgages like baseball cards, pooling them together into special groupings, trading them around with one another, selling pieces of the pool to investors, and having other people manage the pools. They had the pools insured, and the pace of this buying and selling of mortgages reached fever pitch over the last 5 years, as financiers came up with new, inventive, clever ways to carve up the pools into bits and pieces that were attractive to investors.

The problem is that these were not baseball cards—these were home mortgages. These represented a lifetime of savings and monthly payments by hardworking people. These mortgages represented the start of the dream of a secure financial future for new homeowners, and a stable place in which to raise children and grow old. These were the only opportunity that most people in the United States would have to build economic security and a modest amount of savings in the form of home equity.

From our research, we see that City of Oakland and Alameda County residents were herded through the modern American home mortgage system by licensed professionals and by others, claiming to be professionals, who took advantage of them at every stage in the process. Residents worked with mortgage brokers and salespeople who were required by state law to have their best interests in mind when advising them. They did not realize that brokers were also getting another payment from the lender for selling them a more expensive loan what they were qualified for. Residents paid for appraisers who were required to make their best efforts in assessing the true value of the property people were purchasing or refinancing; yet residents were sold homes at falsely inflated prices with physical defects hidden from them. Residents provided their correct income information to mortgage brokers who told them they would lower their interest rate and lower their mortgage payments. Instead, they falsified the borrower's income information and placed them in loans that they could not afford, with interest rates and payment levels that were affordable for just a couple of months- or were sometimes unaffordable from the very first payment. Lenders did not do their due diligence to make sure that the income information provided by the broker was correct; instead, they approved loans that should never have been approved. In this modern, highly complex world of mortgage transactions, this was worse than an uneven playing field for consumers—this was an economic slaughter.

In Alameda County, Oakland has been one of cities hardest hit by foreclosures in the last two years. The lure of profit combined with insufficient oversight or other checks and balances has put almost all homeowners and homebuyers of any income level at risk. However, in Oakland, the majority of foreclosures were in low and moderate income zip codes. This was not because residents in those neighborhoods were more irresponsible, nor was it because of their income level, but because they were flooded with high-risk, higher cost mortgages sold to them by unscrupulous individuals and/or entities interested only in making the sale. As a result, there has been a generational loss of wealth that has

yet to be quantified, as long-term homeowners, including seniors who had paid off their home before bad refinances, have experienced foreclosure. The losses in established neighborhoods in Oakland, with a high rate of homeownership by people of color, have been enormous.

And for what? The federal government itself, financial institutions, and other moving parts of the homeownership system in this country continue to beat the homeownership drum. Yet the reforms that would protect the public still have yet to be made. Players in the mortgage market tout the increase in homeownership nationally in the last 10 years by people of color as if the market should be credited for its recent business practices. However, there is no doubt that the financial and emotional losses for people of color from the scandalous industry practices associated with the subprime melt-down far outweigh any benefit that the recent period of increased homeownership rates for people of color may have yielded.

## **The Diversity of Alameda County and Oakland**

Alameda County, located in Northern California, is one of the most racially diverse counties in California: 13% of the population is African-American, .6% is Native American, 24.6% is Asian, .8% is Hawaiian/Pacific Islander, 21.4% is Latino, and 45.8% is White.<sup>2</sup>

Alameda County also has a significant number of seniors, with 10.6% of residents age 65 or older. In a county of more than 1.4 million residents, that means that more than 148,000 are elderly.

Immigrants make up almost 1/3 of Alameda County's residents, which means almost 431,000 residents were born outside of the U.S. Residents are also linguistically diverse, with 40.5% speaking a language at home other than English.

More than 57% of the county's residents are homeowners. While fully one-fifth of Alameda County's residents live below poverty level, they are among those most targeted for predatory schemes. They are people of color and the elderly, who have a tremendous amount of equity due to the length of time they have owned and paid on their home and due to the unprecedented rise in home values in California. They are also immigrant, first-time homebuyers, who are given loans with terms that they did not want or agree to. Given that people of color and immigrants are particularly vulnerable to high-cost and predatory lending practices, Alameda County as home to a high percentage of such people compared to the U.S. as a whole has more than its share of victims of predatory, abusive lending practices.<sup>3</sup>

The City of Oakland, the seat of Alameda County government, is also diverse. Per 2006 Census data, Asians went from 15.2% of Oakland's population in the year 2000 to 15.6%, Native Hawaiian/Pacific Islanders went from .5% to .7%, Latinos grew from 21.9% to 25.9%, and Native Americans grew from .5% to .9%. In this same time period, the White population grew to 34.1%, compared to 31.3% in 2000.

However, the number of African-American residents has declined markedly since the 2000 U.S. Census. In 2000, 35.7% of Oakland residents were African-American. As of the 2006

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<sup>2</sup> All Demographic data for Alameda County is drawn from the U.S. Census Bureau's 2006 American Community Survey, available at <http://factfinder.census.gov> Figures exceeding 100% are a reflection of respondents indicating more than one race.

<sup>3</sup> For example, 30.9% of Alameda County's population is foreign-born, compared to 12.5% of the U.S. population as a whole, 24.6% of the population is Asian in the county compared to 4.4% in the U.S. as a whole, and 21.4% of the county's population is Latino compared to 14.8% in the U.S. as a whole.

Census (American Community Survey), that percentage had declined significantly to 30.3%. We suggest that part of the reason for that decline may be the loss of African-American homeowners due to abusive, high-cost and/or high-risk lending practices.

In this same time frame, the number of residents over the age of 5 in the city speaking a language at home other than English grew from 36.8% to 41.4% of Oakland's population. In other words, more than 150,000 Oakland residents speak a language at home other than English. This fact is important, not only as an indicator of Oakland's cultural and linguistic diversity but also as an indicator of the possible level of need for translation of mortgage loan documents for prospective Oakland homebuyers and existing homeowners. Translated documents are one tool for helping to facilitate an understanding of loan terms and reducing abuses experienced by this group of homeowners and homebuyers.

For Oakland as a whole, the homeownership rate rose from 41.4% in 2000 to 46.2% in 2005. We believe this may be an indicator of the aggressiveness of the marketing of homeownership to people who could not genuinely afford to become homeowners, as well as a reflection of the level of desire on the part of residents to become homeowners.

Oakland has a significant number of residents living below poverty compared to the rest of Alameda County; 35.4% of residents in 2006 were living below poverty, representing a slight increase from year 2000 data.

Overall, the City of Oakland has lost a significant number of residents, dropping from a population of 399,484 in the year 2000 to an estimated population of 370,173 in the year 2006.<sup>4</sup> It is uncertain how much of that loss of residents is attributable to foreclosures is.

## **Anecdotal Information-The Voices of Homeowners**

Over the course of 2006, HERA disseminated surveys to approximately 4500 homeowners in the City of Oakland through mailings, door knocking, and participation in community events.<sup>5</sup> In addition to homeowner surveys, HERA conducted a series of workshops for homeowners in Oakland.<sup>6</sup> Their stories paint a picture of how first-time and existing homeowners can end up in high-cost, subprime mortgages through a combination of financial desperation and mortgage broker misrepresentations, and their stories are a reminder of the challenging realities homeowners face that cannot be completely captured by statistics.

Common themes in these stories include:

- Low and moderate income homeowners pushed or enticed into lending their names and credit score to brokers for the purchase of additional homes other than the one they are living in. The homeowners are told that the arrangement is safe, and only

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<sup>4</sup> See U.S. Census Data for 2000 and 2005 at American Factfinder, available at <http://factfinder.census.gov>.

<sup>5</sup> The surveys were in both Spanish and English, in an effort to gather information from Spanish-speaking homeowners in the city about their loan experience. The survey form used is attached to this report as Appendix \_\_\_\_\_. We achieved a response rate of less than half a percent. Upon reflection, it is understandable that homeowners would be reluctant to respond because of the shame or other emotional trauma associated with getting into a difficult financial position. The survey forms may also have been daunting because of their length. When we met with homeowners in person, they did not hesitate to respond to questions.

<sup>6</sup> HERA conducted these workshops in partnership with Sentinel Fair Housing, Lao Family Community Development and Acorn Housing.

temporary; however, they sometimes end up being on title to properties that they did not know about and cannot afford to keep.<sup>7</sup>

- Negotiations in Spanish with monolingual Spanish-speakers, but no mortgage documents in Spanish
- People of color using brokers to obtain a mortgage and paying high fees to the broker
- People of color shuttled from one high-cost, subprime loan to another and trapped in high-cost loans by prepayment penalties
- Bait and switch by brokers who verbally offer good loan terms but provide loans that are much more expensive and onerous than what they had promised

There are five zip codes in Oakland that we refer to in this report as “hot spots” because of significant homeownership rates combined with a significant presence of people of color as residents. We have presented homeowner stories by hot spot zip code and have changed names and a few minor facts to protect the identity of the homeowners.

## 94601

**Case One:** Mr. X is a monolingual, Spanish speaking homeowner who lives with his wife in Oakland. He negotiated for the home purchase in Spanish, but all of the loan documents he signed and received were in English. The lender was New Century Mortgage<sup>8</sup>. Shortly after the closing of the loan, he learned from City inspectors that his house had fewer legal rooms than what the realtor and seller had represented to him. The property was marketed as having two legal units, and Mr. X was counting on the rental income to help him pay for the property. He was not only lied to, but he was overcharged for the property as a result of the misrepresentation. Consequently, he could not get out from under this burden by selling the property for the amount of the original mortgage because the property did not have the characteristics (that he was told it had) which would have supported a higher value.

**Case Two:** Mr. E lives with his wife and other family members in a home they purchased in 2006 in Oakland. They became homeowners through his brother’s girlfriend (salesperson) who was working for a mortgage broker. Mr. E is monolingual in Spanish. He never met the broker. The loan closing took place at his home. All of the loan documents were in English. The home needs some repair work that the salesperson got the appraiser not to include in his report. Another problem is that the sales agreement included a term that Mr. E did not understand that was a payment of almost \$50,000 in equity to Mr. E’s brother if Mr. E sells or refinances the home.

**Case Three:** Mr. and Mrs. J are an elderly, African-American couple who owned their home in Oakland for more than 30 years. A few years after paying off their home mortgage, they took out a \$150,000 loan to make some repairs on the house. They took out another loan for about \$40,000 for more repair work. A mortgage broker solicited their business and told them he could lower their monthly payments. Instead, he put them into an expensive, adjustable rate loan (with Downey Savings and Loan) with monthly payments that were higher than what he had promised them. When they contacted the broker for an explanation and to fix the problem, he told them not to worry, and said he would rewrite the loan. He sent a notary to their home with other paperwork that the notary could not explain. It turns out that it was an Option Arm (from Impac Funding); the fully amortized

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<sup>7</sup> Use of the homeowner’s identity helps the broker, realtor or other investor engage in property speculation and is generally done without the homeowner knowing the actual terms of the transaction(s).

<sup>8</sup> New Century is a subprime lender that filed for bankruptcy in March, 2007. It was the number one subprime lender in California in 2005, and number 2 overall in Alameda County and Oakland. (See Chart 7 in this report.)

payment amount on the loan is so high that they cannot afford it. They can only afford the lowest payment option, which results in their losing equity at the rate of about \$1500 monthly.

### 94603

Mr. A, a very elderly, African-American man, approached a lender for a possible refinance of his mortgage. He was told that he did not qualify. Shortly thereafter, he received a call from a mortgage broker, who said that the lender had referred the broker to him. A relative of Mr. A's was suspicious of the broker, who requested personal information from Mr. A over the phone. The relative contacted a different brokerage, which resulted in a loan approval for Mr. A- from the same lender who had turned him down in the first place. Yet, the lender approved of and closed a loan package submitted by the first broker. Mr. A had never agreed to and never signed any documents from this first broker.

### 94605

**Case One:** When Mrs. A, an African-American woman, came to the homeowners workshop, she was concerned about the adjustable rate, Long Beach Mortgage loan she had refinanced into. It had a prepayment penalty, and the payments were set to adjust upward when the penalty expired. Mrs. R recalled that her credit score was about 630 at the time of that refinance. She had obtained the loan through a broker that a friend had referred her to. The Long Beach Mortgage loan replaced the 9.25% interest Countrywide loan she was in that had a 5-year prepayment penalty. Before the Countrywide loan, Mrs. R's loan had been with Fremont Investment Savings and Loan. She had first bought her home in the late 1990s.

In addition to the high-cost of the Countrywide loan, Mrs. R wanted to refinance the loan because of problems with the escrow account. She was getting late charges from Countrywide which had damaged her credit. She felt stressed and pressured from the multiple letters and calls from Countrywide threatening foreclosure. This led Mrs. R to search for a small, personal loan to pay towards the impound account so that she would not have to refinance and pay a prepayment penalty. When she could not get a personal loan because of the damage to her credit and other credit problems, she worked with a broker to get a refinance loan.

**Case Two:** Mr. L is an elderly, African-American man who wanted to get a reverse mortgage because he was told they were good for seniors. He was having trouble keeping up with his expenses on his retirement income. He was approached by a broker and thought he would be getting a reverse mortgage from that person. Instead, he learned when he got his first mortgage payment statement that he was in an adjustable rate mortgage with a balloon payment and a prepayment penalty. The monthly payments on that loan are approximately twice the monthly payments that Mr. L was paying before. Mr. L has found employment to try to stave off foreclosure, but he is still in danger of losing the family home.

### 94609

Mrs. R is an older, retired, African-American woman who became the owner of a family home in the 1990s. She went through a series of refinance loans that brought the mortgage on the house from about \$60,000 up to almost \$450,000 in 2006 (through a Lehman Brothers Bank loan). Part of the impetus for the refinancing was to undertake significant repairs to the property. The last refinance landed her in an Option ARM. She

did not realize that this was the type of loan she was in until she found her way to a housing counseling agency after the fact. She was receiving mortgage broker calls on a daily basis, encouraging her to refinance yet again.

## 94621

**Case One:** Mrs. D and her husband are mono-lingual Spanish speaking Oakland homeowners. Their total household income from employment (including a relative living with them) is \$4480. When they first purchased their home, New Century was their lender. A distant relative approached them with “a good opportunity to make money”. They told the relative that they did not have any money to invest. However, he kept pursuing them to invest in another home. He told them they did not have to worry about the quality of their credit. He was not licensed as a broker but was working for a licensed broker in Alameda County.

In 2004, Mr. and Mrs. D. bought the second home. At the suggestion of the unlicensed relative, a couple of Mrs. D’s co-workers asked her to co-sign for a home loan for them because her credit was good. They agreed verbally. Shortly thereafter, the unlicensed relative coerced them into paying him more than \$5000 dollars for a repair to the home they said they would co-sign for. The relative told them they had no choice because he had already prepared the loan documents. When they refused and told him they did not want the house, he told them he would pay for the loan if they just signed. Mrs. D asked what would happen if he did not make the payments, and he told her not worry about it.

The unlicensed relative did not explain any of the mortgage documents that Mr. and Mrs. D. signed. All the documents were in English. All conversations about the transaction were in Spanish. About one year later, the lender (Countrywide) sent them a letter that indicated they were 90 days behind in payments. Again- this was the house for which the relative had used Mr. and Mrs. D’s name and credit information and had told them he would make payments on. Mr. and Mrs. D contacted the relative after Countrywide threatened foreclosure, and the relative appeared on their doorstep with new documents of some sort for them to sign. They refused. The relative ultimately refinanced the loan out of Mr. and Mrs. D’s name.

**Case Two:** Mrs. J is a retired, elderly African-American homeowner, living by herself off her retirement income of \$2325 per month. When she fell behind in her mortgage payments in 2006, a broker contacted her, unsolicited. Other people had also called her on the phone, offering her loans. Because her income was low, they wanted her to get a co-signer before they would agree to refinance her loan. This particular broker, however, said he could help her catch up on her mortgage. He spoke with her about 15 times, between the first solicitation and the final loan closing. The broker placed her into a stated income loan with Countrywide, falsifying her income by almost \$5000. She learned that there was a problem when the first mortgage payment statement arrived with a required mortgage payment that was much higher than the prior mortgage that Mrs. J was already behind on.

# Homeownership Losses in Alameda County and Oakland, 1993-2007

We looked at home mortgage foreclosure information to put some hard numbers behind the reason why many homeowners in Oakland and Alameda County as a whole have been in financial distress over the past 14 years, to the point where they were in danger of losing their home. Because homeowners who are falling behind or know they are about to fall behind in their mortgage payments can avoid a formal foreclosure by taking steps not captured by foreclosure data (such as selling the home, turning the deed into the lender or transferring title of the home) the foreclosure data below does not reveal the full extent of the crisis for homeowners.<sup>9</sup>

Before a lender can foreclose on a home, the lender must prepare a formal Notice of Default, record it with the county in which the home is located, and serve it to the homeowner. The homeowner then has 90 days in which to catch up on the payments or make a payment plan with the lender or servicer. If the homeowner does not do so, California law requires the lender to issue a second notice—a Notice of Trustee's Sale—if the lender wants to pursue the foreclosure. The Notice of Trustee's Sale tells the homeowner that the home will be sold if the loan is not brought current. The home cannot be sold any sooner than 20 days after the Notice of Default (90-day notice) has expired. As a result, the total amount of time for the formal foreclosure process from start to finish is a minimum of 110 days.

Add to that the fact that, in practice, most lenders and their agents will not begin the formal foreclosure process for 60-90 days after the first mortgage payment is missed. In that interim time period, they will send letters or otherwise communicate to the homeowner that there have been missed payments that need to be caught up on. Thus, practically speaking, a homeowner who misses his/her first payment in January may not lose the home at the trustee's sale until July.

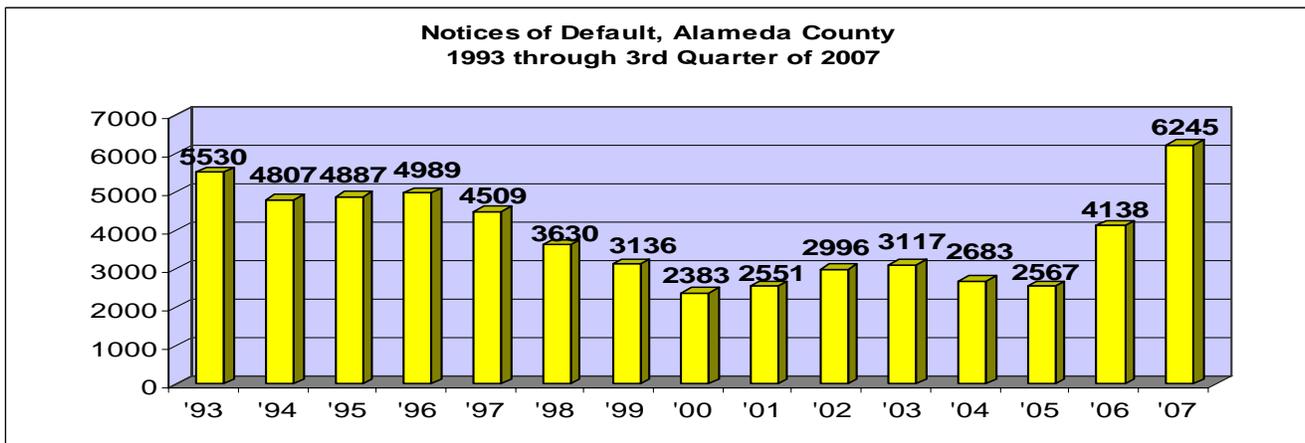
## In 2007, Notices of Default in Alameda County Hit the Highest Level the County Has Seen In Fifteen Years

Alameda County (and the City of Oakland in particular) is experiencing a foreclosure crisis unlike any that the county has seen since the 1990s. **For Alameda County as a whole, recorded Notices of Default in the first 3/4 of 2007 were 50% higher than for the entire year of 2006.**<sup>10</sup> A total of 6245 Notices of Default were filed from January 1 through October 1, 2007. The previous year, 2006, had already seen a 62% increase over 2005 Notice of Default levels, as shown in the chart below.

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<sup>9</sup> Readers should use the figures presented here as a starting place and realize that actual numbers of homeowners in distress or who lost their homes have been and are even higher.

<sup>10</sup> Data obtained from Alameda County Recorder's Office, on-line database. Please note that these numbers include both residential and non-residential properties. Data on foreclosures by city was not available through the Recorder's Office. Data for the year 2007 is from January 1<sup>st</sup> to October 1<sup>st</sup>.



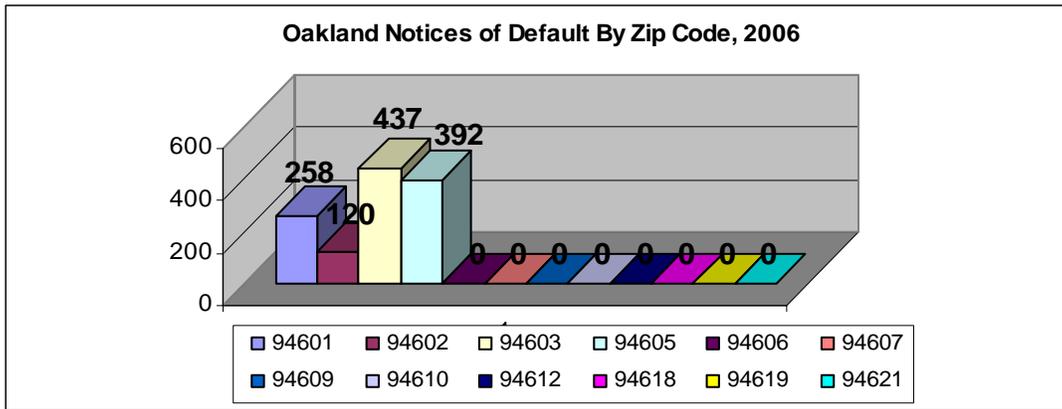
Contributing factors to the increase in default filings are that homeowners are unable to sell their homes for as much as the mortgage note, and are generally unable to get lenders or servicers to accept less than the total loan amount in satisfaction of the debt. Homeowners are also unable to refinance their way out of foreclosure when their homes are worth less than the debt on the home. (See Maps 7-10 in Appendix 1 of this report for an illustration of where Notices of Trustee's Sale recorded in Alameda County were concentrated, as grouped from 1996-2005, grouped from 2005-2007 and grouped from January, 2006 through September, 2007.)

We believe that the sharp increase in Notices of Default in 2006 reflects, in part, the fact that homeowners had little to no equity left to borrow against, and home values for the county as a whole were declining as the market readjusted. Market readjustment downward reflects additional factors such as unemployment rates, and the rising number of unsold existing homes as a result of completed foreclosures.

Home sale data helps to show the environment in which distressed homeowners were functioning as Notice of Default levels climbed. In 2006, home sales decreased dramatically in volume across Alameda County from a range of -2.3% in Berkeley's 94702, to -46.2% in Dublin's 94568 zip code. The only zip code that experienced an increase in sales volume in 2006 was Emeryville's 94608 zip code.

### **From 2006-2007, Notices of Default in the City Of Oakland Were Concentrated in Zip Codes With High Numbers of People of Color and Significant Homeownership Rates**

For the City of Oakland, a break-down of Notices of Default shows that 3 out of the 5 zip codes we identified in this report as hot spots (high homeownership rate combined with high numbers of people of color) suffered the vast majority of all of the Notice of Default activity in 2006. Out of a total of 1207 notices recorded, 1087 (90%) were in zip codes 94601, 94603, and 94605.



All three of these zip codes have a diverse, and primarily low and moderate income populace. The 94601 zip code encompasses part of the neighborhood known as Lower San Antonio. One of oldest and most diverse areas in Oakland, it is home to over 54,000 people.<sup>11</sup> A disproportionate number of residents – 45.9%-- live below poverty level. African-Americans and Whites constitute 23.7% and 25.7% of the zip code’s residents respectively. Latinos represent the majority of residents, with 49.6% of the population in this zip code. Asians make up a significant 16.2% of residents. (Over 43% of residents are foreign-born. A whopping 62.5% of residents speak a language at home other than English. Approximately 34% of dwellings in this zip code are owner-occupied.

Homeownership rates are strong in the 94601 and 94603 zip codes, and the majority of residents are African-American. The 94603 zip code in Oakland encompasses most of the Elmhurst community development district (District 7) and is home to over 31,000 people.<sup>12</sup> A disproportionate number of residents living below poverty level are in District 7— 44.6%. In 94603, African-Americans constitute 53.6% of the population. The area also has a strong Latino presence—38.1%. Another .5% are Native American, 2.9% are Asian, and 1.1% are Native Hawaiian or Pacific Islander. Over one-quarter of residents (26.4%) are foreign-born. A high percentage of 94603’s residents speak a language at home other than English—40.4%. Over half of the residents are homeowners—52.9%.

East Oakland’s 94605 zip code is home to almost 43,000 people.<sup>13</sup> Over 30% of residents in this zip code live below poverty level. Over 20% of 94605’s residents speak a language at home other than English, while 13.1% were born outside of the U.S. Homeownership rates are high- 61.4% on average across all of 94605. A little over 60% of residents are African-American.

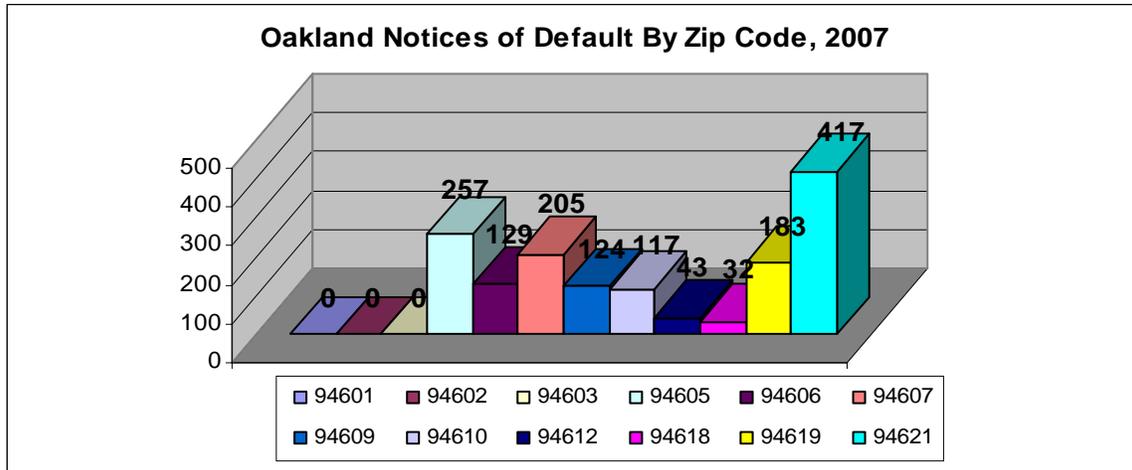
In 2007, we see that more zip codes and even more homeowners have faced foreclosure. **The 1507 Notices of Default recorded this year on properties in the City of Oakland represent a 20% increase for just ¾ of 2007 over all of the recordings made in 2006 for the entire year.** The data also reveals that two of the zip codes hit hardest last year (94601 and 94603) have not had any properties reach the Notice of Default stage this year. In addition, another zip code- 94607- has had a high number of Notices of Default issued (205 total thus far). The zip code with the highest number of

<sup>11</sup> All demographic data for 94601 is based on the 2000 U.S. Census.

<sup>12</sup> All demographic data for 94603 is based on the 2000 U.S. Census.

<sup>13</sup> All demographic data for 94605 is based on the 2000 U.S. Census.

Notices of Default is 94621. Even assuming a modest error rate in the data, these figures are striking.<sup>14</sup>



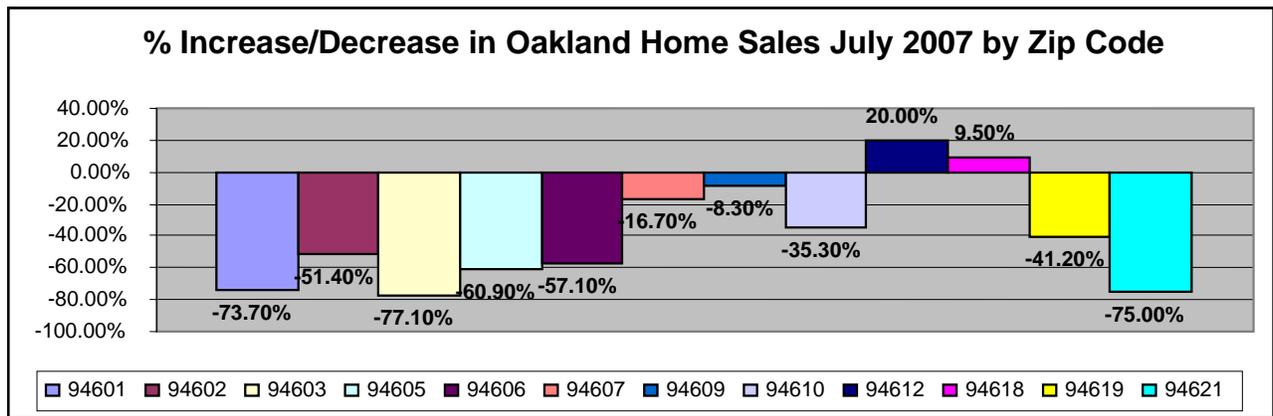
A majority of 94621's residents are low and moderate-income people of color. Out of the almost 31,000 people who live in the 94621, over 54% live below poverty level.<sup>15</sup> African-Americans constitute 48.6% of the population while Latinos constitute 41.4%. Almost one-third of residents are foreign-born, and a high percentage of residents in the zip code—44.8%-- speak a language at home other than English. Almost 44% of residents in this East Oakland zip code are homeowners. (See Map 4 for Percent of Households Where English is Not Spoken at Home, Compared With Notices of Default Recorded from January, 2006 – September, 2007. See also Map 3 on the Percent of Persons of Color compared with Notices of Default recorded in that same time period.)

It became almost impossible for homeowners to avoid foreclosure by selling their home. A massive decline in 2007 home sales in Oakland in all zip codes except 94612 and 94618 reflects homeowners' being trapped in their existing mortgages, unable to sell their homes, or unable to sell them for the amount of mortgage they had on their home. In turn, as part of a viscous cycle, the negative impact of foreclosures on the value of surrounding homes has meant that each successive homeowner in distress was trying to sell their home in a steadily declining market.<sup>16</sup> The loan data examined later in this report tells us that many of those mortgages may have been high-cost, or high-risk and unaffordable.

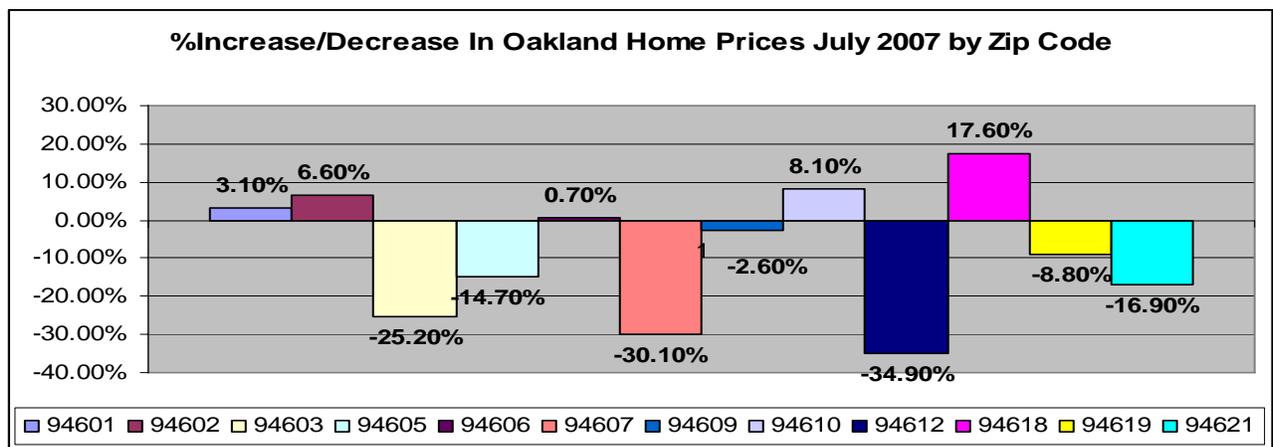
<sup>14</sup> Based on data from First American CoreLogic. Please note that there are a significant number of duplexes, triplexes, quadraplexes and other multi-family dwellings that are not included in the figures below. Figures for 2007 are from January 1<sup>st</sup> to October 1<sup>st</sup>.

<sup>15</sup> All demographic data for 94621 is based on the 2000 U.S. Census.

<sup>16</sup> Dan Immergluck, Geoff Smith, *The External Costs of Foreclosure: The Impact of Single-Family Mortgage Foreclosures On Property Values* (2006) 17 Housing Policy Debate 1, Fannie Mae Foundation.



Single-Family home sales in Oakland declined in 2007 despite significant reductions in prices in many neighborhoods: <sup>17</sup>



Zip codes with the sharpest decrease in home prices include neighborhoods with some of the highest concentrations of people of color and people of modest means. For example, in the 94603 zip code, which experienced over a 25% decrease in home prices between July of 2006 and July of 2007, more than 91% of residents are either African-American or Latino. Almost 45% of residents live below poverty level. In 94605, which experienced an almost 15% decrease in home prices, 77% of residents are African-American or Latino. More than 20% of residents in this zip code live below poverty level. The 94621 zip code, which had a 75% decrease in home sales and over a 16% decrease in home prices as of July, 2007, has had the highest number of properties with Notices of Default recorded against them in 2007 out of all the zip codes in Oakland. These are also neighborhoods that appear to have received a significant number of high-cost, high-risk loans (as set forth later in this report).

In 94609, where the decrease in home prices was a far less severe 2.6%, the Notice of Default rate was high but not nearly as high as that experienced in East Oakland's 94621 zip code. The 94609 zip code includes the Temescal neighborhood where homeownership is at 27.4%. Out of the more than 21,000 people who live in the area, a majority are African-American—44.7%. Another 35.4% of residents are White. Almost 8% of residents are Asian. The Latino population is growing, at almost 10% of the population. Approximately 41% of residents are living below the poverty level. While more than 13%

<sup>17</sup> Bay Area Home Sale Activity, *SF Chronicle Charts*, DataQuick, available at <http://22.dqnews.com/ZIPSFC2006.shtm>. The decrease/increase in home prices is from the same month of the preceding year.

of residents are foreign-born, 19.6% of residents speak a language at home other than English.<sup>18</sup>

## High-Risk Lending From 2000-2006 Fueled Foreclosure Levels We See Today in Alameda County and Oakland

From 2000-2006, exotic mortgages were marketed heavily, particularly in California. "Exotic loans" are a variety of higher-risk, adjustable rate mortgages (ARMs), including Option ARMs and Interest-Only Mortgages. Option ARMs provide homeowners the option of not paying all of the interest on the mortgage, in addition to not paying any loan principal; as a result, these can be negatively amortizing loans that strip away home equity monthly. World Savings (Golden West Financial) which was headquartered in Oakland, California, and recently merged with Wachovia Savings, has been one of the largest issuers of Option ARMs nationally and in the Oakland/Alameda County area. For the second quarter of 2006, World had more than \$39,000,000 in single-family mortgage loans outstanding in Northern California alone. Ninety-nine percent of World's loan portfolio consists of ARMs, the vast majority of which are refinance loans.<sup>19</sup> Almost all of those ARMs are Option ARMs.<sup>20</sup>

Other lenders have offered interest-only mortgages, which start with a low monthly payment that rises to what is typically a very high payment level. In 2005, an estimated 25% of all mortgage loans made in the U.S. were interest-only loans.<sup>21</sup> In California, the figures are much higher; "nearly half of the homebuyers and thirty percent of people refinancing mortgages in California chose interest-only loans [in 2005], according to research firm LoanPerformance".<sup>22</sup>

These loans, and other high-cost loans, usually have pre-payment penalties, which require homeowners to pay 6 months' worth of interest (or more) if they try to refinance out of the loan before 3 years (sometimes more, rarely less) have passed. This penalty could cost the homeowner an additional \$15,000 or more that has to be paid to the lender in order to refinance the loan, essentially locking homeowners into these high-cost loans until the prepayment penalty expires. The high incidence of lending in Oakland and Alameda County by subprime lenders likely to include this term in their loans is discussed later in this report.

Brokers and lenders drew homeowners into these loans with the promise of low monthly payments, without always explaining the true cost of the loan. (See anecdotal section of this report.<sup>23</sup>) Brokers also promised homeowners that they could refinance again into "something better" within 6 months or a year of the loan closing. They also used the potential of home value appreciation as part of their sales pitch, discussed further below. The way in which lenders compensate brokers has contributed to the phenomenon of brokers placing borrowers into more expensive loans than what they may have been able to qualify for. Lenders that use brokers to sell their loans provide a Yield Spread Premium

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<sup>18</sup> All demographic data for 94609 is based on the 2000 U.S. Census.

<sup>19</sup> *Golden West Financial, Form 10Q, June 30, 2006*, Securities and Exchange Commission, pp.18-19, available at [http://www.sec.gov/Archives/edgar/data/42293/000119312506160937/d10q.htm#tx60655\\_40](http://www.sec.gov/Archives/edgar/data/42293/000119312506160937/d10q.htm#tx60655_40)

<sup>20</sup> *Id.* at 23.

<sup>21</sup> *Greenspan Wary of Risky Mortgages, Price Peaks Built on 'Exotic' Loans Trouble Fed Chairman*, Washington Post.com (June 10, 2005) available at <http://www.washingtonpost.com/wp-dyn/content/article/2005/06/09/AR2005060900661.html>

<sup>22</sup> *Exotic Mortgages Seen Losing Their Allure* (2006), MSNBC.com, available at <http://www.msnbc.msn.com/id/14584569/>

<sup>23</sup> Much of the demand for such exotic and higher-cost home loan products has come from investors, not borrowers. See, *Inside B&C Lending, Diversification, Branding, Key to Ameriquest Strategy*, remarks of Ketan Parekh, Vice President for Capital Markets, Volume 9, Issue 22, p. 6. Regulatory agencies have themselves noted that beyond consumer demand, "secondary market appetite has grown rapidly for mortgage products that allow borrowers to defer payment of principal and, sometimes, interest." See *Interagency Guidance on Nontraditional Mortgage Products*, Federal Register, Vol. 70, No. 249, p. 77250, December 29, 2005.

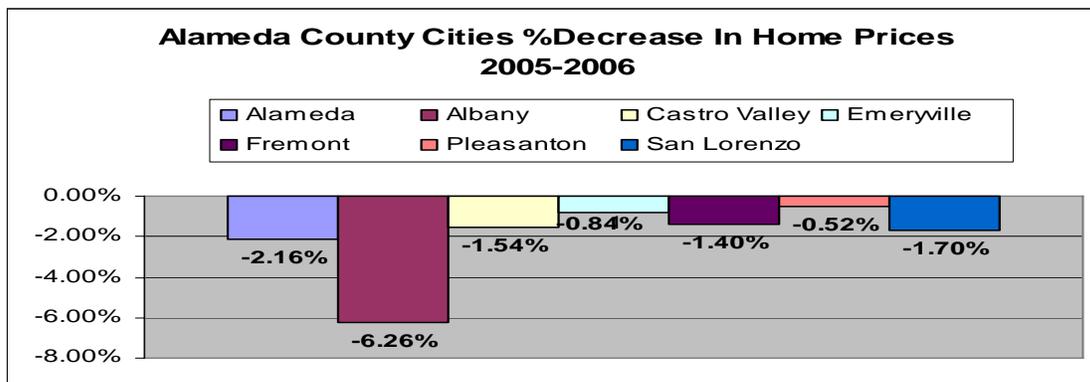
(YSP) payment to brokers for every loan they sell with an interest rate above a par rate- a rate at zero points.

## The Apparent Appreciation in Home Values in Alameda County and Oakland Supported High-Risk Lending From 2000-2006<sup>24</sup>

When home values rise, refinance mortgages are marketed heavily by brokers and lenders, encouraging homeowners to take money out of the home for one purpose or another. The cost of the refinancing itself (broker and lender fees, plus other costs) are wrapped into the new mortgage amount. Part of the marketing pitch includes assurances to homeowners that their property will appreciate in value so much that they need not worry about the fact that the loan they ended up with was not what they were promised, or that the loan was for more money or at a higher rate of interest than what they were promised. (Another important element of the sales pitch by brokers and lenders has been the claim that the monthly mortgage payments would be affordable for at least a few years, as discussed in the homeowner stories.)

Home prices were, in fact, still appreciating through 2005 in Alameda County, so there was still equity (to be stripped) to support the refinance of homes.<sup>25</sup> According to DataQuick, home prices across Alameda County rose by an average of 19.79% in 2005.

However, the year 2006 saw a leveling and decline in home prices in Alameda County that left many homeowners unable to sell their homes before going into foreclosure.<sup>26</sup>



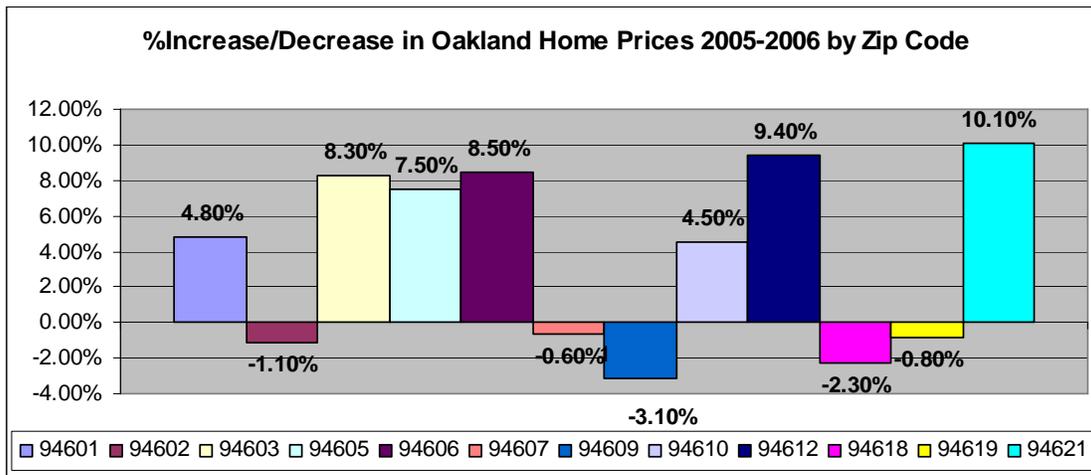
The notable exception to the price decline in 2006 was the City of Oakland where home prices increased in most parts of the city, as shown in the breakdown by zip code below.<sup>27</sup>

<sup>24</sup> How much the apparent appreciation of home value was supported by false appraisals is uncertain.

<sup>25</sup> *California Home Sales Activity by City, Home Sales Recorded in the Year 2005*, DataQuick Real Estate News, available at <http://www.dqnews.com/ZIPCAR2005.shtm>.

<sup>26</sup> *California Home Sales Activity by City, Home Sales Recorded in the Year 2006*, DataQuick Real Estate News, available at <http://www.dqnews.com/ZIPCAR2006.shtm>.

<sup>27</sup> *Bay Area Home Sale Activity, SF Chronicle Charts*, DataQuick, available at <http://22.dqnews.com/ZIPSFC2006.shtm>.



Even so, that one year of continued increase in home values may have slowed but did not stop the tremendous rise in Notices of Default discussed above (or Notices of Trustee's Sale, discussed below).

We believe that the apparent increase in values in some Oakland zip codes may actually be indicative of the level of appraisal fraud and other types of related real estate abuses suffered by residents. For example, in one of the homeowner stories in this report for the 94601 zip code, a Spanish-speaking, immigrant family was sold a home that supposedly had two separate, legal units. That property was, in fact, marketed, priced and sold as if both units were legal. Instead, the homeowner learned some time after he purchased the property that one of the units lacked proper permits and was, in fact, illegal.

The problem with appraisers' indicating that a property is worth more than it actually is has started to receive the attention it deserves.<sup>28</sup> Recent allegations from appraisers themselves about being pressured by realtors and brokers into inflating the value of property are shedding light on a business that has been an integral part of real estate transactions. This month, the New York State Attorney General filed a complaint alleging that one of the largest lenders in the country pressured one of the country's largest real estate appraisal firms into inflating home appraisals.<sup>29</sup> To understand the boom and bust in Alameda County and Oakland, we have to consider the possibility that appraisal fraud played a part.

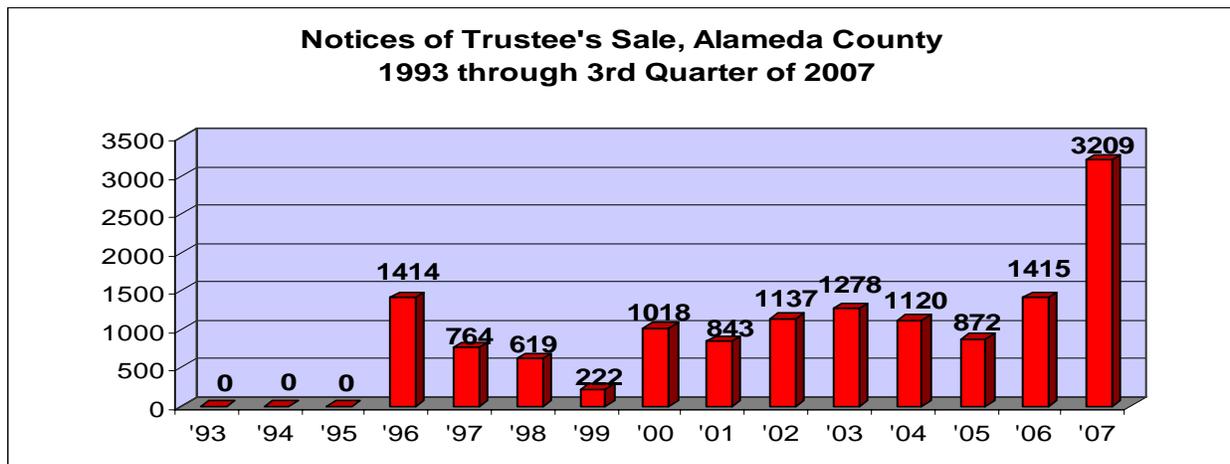
## Notices of Trustee's Sale in Alameda County Hit Record Levels in 2007

Just as Notices of Default have risen dramatically, **for Alameda County as a whole, the number of Notices of Trustee's Sale in just the first 3/4 of 2007 is 126% higher than for the entire year of 2006.** The Notice of Trustee's Sale is the second and final public notice that a lender must record before selling a home for which the mortgage loan is in default.<sup>30</sup>

<sup>28</sup> See, *Home Insecurity: How Widespread Appraisal Fraud Puts Homeowners At Risk* (2005), Demos, available at <http://www.demos.org/pub485.cfm>, and Kenneth Harney, *Appraisal Inflation* (2007), WashingtonPost.com, available at <http://www.washingtonpost.com/wp-dyn/content/article/2007/04/20/AR2007042000887.html>

<sup>29</sup> NY ATTORNEY GENERAL SUES FIRST AMERICAN AND ITS SUBSIDIARY FOR CONSPIRING WITH WASHINGTON MUTUAL TO INFLATE REAL ESTATE APPRAISALS, Office of the Attorney General of New York, available at [http://www.oag.state.ny.us/press/2007/nov/nov1a\\_07.html](http://www.oag.state.ny.us/press/2007/nov/nov1a_07.html)

<sup>30</sup> There are some uncertainties about the actual number of Notices of Trustee's Sale filed in Alameda County during this time period. For example, although the Alameda County Recorder's Office's Electronic Data System indicates that none were filed in the county from the years 1993-1998, HERA found through data obtained from the Dataquik corporation (which pulls from county data) that there were many such notices filed during those 5 years. Similarly, when HERA analyzed Dataquik's Notice of Trustee's Sale data for Alameda County from January of 1996 through September of 2003, we found 5877 such notices; a



Notices of Trustee's Sale do not tell us how many homeowners were able to save the home before it was actually auctioned. However, we know that, for example, in 1996, out of the 4989 homeowners who received a Notice of Default, 1414 were not able to save their home before a foreclosure sale was set. From 1996 through 1999, the number of Notices of Trustee's Sale declined markedly.

All of that changed in the county, starting in 2000. In that year, we began to see Alameda County homeowners in default unable to catch up on their home loan before a Notice of Trustee's Sale was issued. As shown in the chart above, 222 homeowners were scheduled to lose their home to a foreclosure sale (Trustee's Sale) in 1999. That number ballooned over the next 7 years by 5.37 times to a total of 1415 foreclosure sales in 2006.<sup>31</sup>

For perspective, readers should know that Oakland has among the highest foreclosure rates in the entire United States. The City of Oakland had the 19<sup>th</sup> highest rate of foreclosure filings in the entire United States as of August, 2007.<sup>32</sup> These "foreclosure filings" include Notices of Default as well as Notices of Trustee's Sale. The implosion of the subprime lending market combined with lender/servicer not providing loan work-outs or modifications for most of these loans has further contributed to homeowners' loss of their homes as there are few if any mortgage products for them to refinance into.

## Fueling Foreclosures- Home Mortgage Lending in Oakland and Alameda County, 2004-2005

Home mortgage lending in Oakland has been characterized by an over-abundance of high-cost lending across the city's low and moderate income neighborhoods. Foreclosure losses in Alameda County and across Oakland's low and moderate income neighborhoods have been high. In some low and moderate-income zip codes of Oakland,

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total of 3571 were for single family residences, and 921 were for townhouses or condominiums (for a total of 4492). Yet the county's electronic data system indicates a total of only 4498, including commercial and other properties, were filed during those 14 years. Notably, that number is close to the 4492 number we counted for just residential properties. Readers should note the significant discrepancy when considering the following information. From 1993-1998, despite the issuance of a significant number of Notices of Default, Alameda County Recorder's Office records indicate that there were no Notices of Trustee's Sale recorded. Through Dataquick information, we supplied missing data for the 1996-1998 time period.

<sup>31</sup> 2007 Notice of Trustee's Sale data is from January 1, 2007, through October 1, 2007. Data obtained from Alameda County Recorder's Office, on-line database. Please note that these numbers include both residential and non-residential properties. The office does not maintain data on foreclosures by city. We suspect that the 0 numbers for Notices of Trustee's Sale from 1993-1995 reflect missing data. Data for the years 1996-1998 is from Dataquick.

<sup>32</sup> *California cities fill top 10 foreclosure list*, CNN Money.com (August, 2007), available at [http://money.cnn.tv/2007/08/14/real\\_estate/California\\_cities\\_lead\\_foreclosure/index.htm](http://money.cnn.tv/2007/08/14/real_estate/California_cities_lead_foreclosure/index.htm), based on RealtyTrac data.

where high numbers of people of color reside and homeownership rates are significant, foreclosure rates in 2006 and 2007 were remarkably high.

An examination of the lenders that did the most business in the county and in Oakland in 2004 and 2005 helps to explain this sad outcome. Many of these lenders are high-cost, subprime lenders. Others have specialized in higher-risk loan products that were never affordable or appropriate for the borrowers they were sold to because they were costly from the get-go, or would soon become costly as their interest rates adjusted upward. Some of the subprime lenders who dominated the mortgage market in Alameda County and in Oakland’s moderate and lower income neighborhoods in 2004 and 2005 have:

- ◆ been subject to orders from federal and state regulators requiring a change in the way that they conduct business
- ◆ suffered high rates of default on their mortgage products nationally and have gone into bankruptcy
- ◆ suffered high rates of default on their mortgage products nationally and have been sold to other entities
- ◆ ceased operations completely, apparently as a result of the losses that they incurred

We discuss who those lenders are and what became of them below.

### Top Lenders in California by Volume, 2004-2005

To provide a context for analyzing who has been doing mortgage lending in Alameda County and in the City of Oakland, we looked first at who was doing the most lending in California as a whole.

The chart below shows the top 10 lenders for 2004-2005 in terms of their total share of the market for all types of mortgages combined (which includes all home purchase, home improvement and refinance loans made on owner occupied dwellings). In 2004 and 2005, Countrywide was number one in terms of its total share of the California market. Wells Fargo Bank and Washington Mutual traded the two and three spots in 2004 and 2005. World Savings and Bank of America traded positions four and five.

**Chart One: TOP TEN LENDERS – CALIFORNIA- BY MARKET SHARE, 2004 and 2005:**

	2004	2004	2004	2005	2005	2005
Lenders in California	Rank	Market Share	Total Loans	Rank	Market Share	Total Loans
Countrywide Home Loans	1	7.11	157,984	1	7.28	155,903
Washington Mutual Bank	2	6.20	137,943	3	5.47	117,138
Wells Fargo Bank	3	5.97	132,822	2	5.66	121,346
Bank of America	4	4.75	105,671	5	3.38	72,384
World Savings Bank	5	4.15	92,287	4	4.00	85,705
National City Bank, Indiana	6	3.55	78,812	6	2.78	59,530
New Century Mtg. Corp.	7	2.65	58,836	7	2.76	59,053
Argent Mortgage Corp.	8	1.99	44,133	9	2.10	44,947
Chase Manhattan Mtg. Corp.	9	1.97	43,857	- <sup>33</sup>		
GMAC Mortgage Corp.	10	1.86	41,430	- <sup>34</sup>		
WMC Mortgage				8	2.38	50,940
Long Beach				10	1.99	42,680

<sup>33</sup> This lender dropped in rank to 15<sup>th</sup> in 2005.

<sup>34</sup> This lender dropped in rank to 12<sup>th</sup> in 2005.

## Top Ten High-Cost (Subprime/Rate Spread) Lenders in California By Volume, 2003-2005

Some lenders make subprime (high-cost) loans that may also contain loan terms which are burdensome to the homeowner. (Examples are pre-payment penalties and Yield Spread Premiums, which are terms that do not generally appear in lower-cost, prime loans.) Subprime loans are now captured in the HMDA data as "Rate Spread Loans".<sup>35</sup> The chart below shows who the top 10 subprime lenders were in California in 2003 per Housing and Urban Development (HUD) data, alongside Rate Spread Lender Data for 2004-2005.<sup>36</sup>

From this data, we can see, for example, Fremont Investment and Loan was the fifth largest subprime lender in California in terms of loan volume in 2003 and then moved up to number one in 2004 with the highest number of Rate Spread Loans in the state. WMC Mortgage was a close second in 2004. In 2005, WMC maintained its second place position, but a new leader in Rate Spread Loans had appeared- New Century Mortgage. In third was Long Beach Mortgage and fourth was Argent Mortgage. (Many subprime lenders mentioned in this report have filed bankruptcy, been shut down or are otherwise troubled, as discussed below on page 26.)

**Chart Two:**

**TOP TEN HUD-SUBPRIME (2003) AND RATE SPREAD LENDERS (2004, 2005) – CALIFORNIA- BY MARKET SHARE<sup>37</sup>**

2003 Rank	Lender	2003 Market Share	2003 Total Loans	2004 Rank	2004 Market Share	2004 Total Loans	2005 Rank	2005 Market Share	2005 Total Loans
1	First Franklin Financial/ National City Bank, IN <sup>38</sup>	1.54	48,075	9	2.85	7,352	5	5.27	29,860
2	Greenpoint Mortgage Fund <sup>39</sup>	1.34	41,827	-	*	*	*	*	*
3	New Century	1.30	40,429	3	6.93	17,887	1	8.82	50,013
4	Long Beach	0.88	27,421	8	3.32	8,574	3	6.83	38,692
5	Fremont Investment & Loan	0.87	27,178	1	8.57	22,094	6	5.23	29,625
6	Argent	0.68	21,245	4	6.12	15,797	4	6.59	37,350
7	WMC Mortgage Corp.	0.65	20,169	2	7.34	18,937	2	8.14	46,119
8	Fieldstone Mortgage Co. <sup>40</sup>	0.58	17,959				-		
9	Ameriquist Mortgage <sup>41</sup>	0.55	17,009	6	3.99	10,300	-		
10	Option One Mortgage	0.46	14,424				10	3.33	18,879
*	Countrywide Home Loans			5	5.99	15,458	7	4.83	27,383
*	Lehman Brothers Bank <sup>42</sup>			7	3.48	8,968	-		
*	Encore Credit Corp.			10	2.80	7,213	9	3.44	19,479
*	BNC Mortgage <sup>43</sup>			*			8	3.44	19,516

<sup>35</sup> Rate Spread Loans as defined by the Home Mortgage Disclosure Act are mortgages priced at 3% or more above the comparable Treasury Security (for first lien mortgages), or 5% or more for second lien or other subordinated mortgage loans.

<sup>36</sup> Because Rate Spread data was not being kept in 2003, we have utilized HUD's Subprime Lender data.

<sup>37</sup> This includes all home purchase, home improvement and refinance loans made on owner occupied dwellings.

<sup>38</sup> First Franklin Financial was acquired by and became a division of National City Bank in 1999. National City sold First Franklin to Merrill Lynch in 2006.

<sup>39</sup> Greenpoint Mortgage was the wholesale lending unit of Capital One. Capital One announced in August, 2007, that it was ceasing all mortgage originations through Greenpoint.

<sup>40</sup> Fieldstone was ranked 16<sup>th</sup> in 2005. Fieldstone filed for bankruptcy at the end of November, 2007.

<sup>41</sup> Ameriquist Mortgage was ranked 14<sup>th</sup> in 2005.

<sup>42</sup> Lehman Brothers was ranked 15<sup>th</sup> in 2005.

<sup>43</sup> Lehman Brothers shut down BNC Mortgage in August of 2007.

## Top Lenders in Alameda County and Oakland by Market Share, 2004-2005

With the preceding information as a back-drop, we then examined who the top 10 lenders were in California by market share and compared that to their market presence in Alameda County and Oakland. We also examined this information broken down by their presence in the home purchase market versus the refinance market. The following charts use California as the base of comparison with Alameda County and Oakland's markets. The "Overall" category refers to all mortgage loans made. The "Purchase" category refers to loans used to buy the home in the first place. The "Refi" category refers to loans used to refinance the mortgage.

**Chart Three:**

### TOP TEN LENDERS – CALIFORNIA COMPARED TO ALAMEDA COUNTY, OAKLAND – BY MARKET SHARE, 2004

Top Ten Lenders, California, Overall	CA Overall	CA Purchase	CA Refi.	Ala. Overall	Ala. Purchase	Ala. Refi.	Oak Overall	Oak Purchase	Oak Refi.
	Market Share %								
Countrywide (1)	7.1	9.22	6.03	4.72	6.51	3.71	5.31	6.54	4.58
Washington Mutual (2)	6.20	4.70	7.15	6.98	5.41	7.73	6.96	4.85	8.15
Wells Fargo Bank (3)	5.97	5.51	6.70	8.69	8.90	9.09	7.67	7.94	8.03
Bank of America (4)	4.75	3.37	5.10	6.82	5.88	6.90	7.05	7.25	6.34
World Savings (5)	4.15	2.74	4.93	7.36	4.50	8.64	8.93	3.57	11.62
National City Bank, IN (6)	3.55	5.92	2.44	2.59	4.14	1.83	2.50	4.23	1.60
New Century (7)	2.65	3.52	2.12	1.77	2.97	1.09	1.14	1.48	0.87
Argent Mtg. (8)	1.99	1.11	2.48	0.92	0.49	1.15	0.83	0.36	1.06
Chase Manhattan Mtg. (9)	1.97	1.41	2.41	2.38	1.99	2.68	2.38	2.24	2.56
GMAC Mtg. Corp (10)	1.86	0.43	2.17	0.94	*	1.12	0.88	*	1.12

NOTE: \* = not within top 50 of lenders by market share.

Through this comparison, we begin to see in which regions lenders have a bigger share of the market overall, as well as the purchase market versus the refinance market. For example, in 2004 Countrywide had the highest market share in California overall with 7.1% of the market. With 9.22% of the purchase market versus 6.03% of the refinance market, we see that the company had a bigger piece of the purchase-money market in the state than the refinance market.

Wells Fargo Bank data tells us a different story. Wells Fargo Bank had the third highest market share in California overall in 2004, at 5.97%. Its share of Alameda County's overall mortgage market was 8.69%. In Oakland, it had 7.67% of the overall market. Thus, we can see that Wells Fargo Bank had a higher share of the county and the city's refinance market than of the state's market overall. Similarly, Bank of America's share of the market was higher at the local level than at the state level.

The contrast is sharper when we look at World Savings. In 2004, we see that it had 4.93% of the California mortgage refinance market but it had 8.64% of Alameda County's

refinance market and 11.62% of Oakland's refinance market. In other words, World Savings had a much stronger home mortgage lending presence in Oakland than in California as a whole, and for refinances in particular. Since World's loan portfolio consists primarily of Option ARMS, for it to have such a strong presence in Oakland and Alameda County likely means a higher percentage of the city and county's market ended up with these loan products than did the state as a whole. (The fact that World (now Wachovia) was headquartered in Oakland may have contributed to the concentration of its lending in the city and region.)

**Chart Four: TOP TEN LENDERS – CALIFORNIA COMPARED TO ALAMEDA COUNTY AND OAKLAND – BY MARKET SHARE, 2005**

Top Ten Lenders, California, Overall	CA Overall	CA Purchase	CA Refi.	Ala. Overall	Ala. Purchase	Ala. Refi.	Oak Overall	Oak Purchase	Oak Refi.
	Market Share %								
Countrywide (1)	7.28	8.16	6.69	4.61	5.22	4.20	4.60	4.62	4.54
Wells Fargo Bank (2)	5.66	5.69	5.61	8.60	10.27	7.51	7.13	8.06	6.27
Washington Mutual (3)	5.47	3.80	6.79	6.97	5.19	8.19	5.94	4.30	7.04
World Savings Bank (4)	4.00	1.74	5.24	6.85	2.69	9.00	7.38	1.88	10.72
Bank of America (5)	3.38	2.70	3.25	4.54	4.12	4.27	4.81	4.28	4.51
National City Bank, IN (6)	2.78	4.39	1.93	2.34	3.13	2.03	1.86	2.49	1.59
New Century Mortgage (7)	2.76	3.94	2.04	2.32	4.13	1.23	2.93	4.73	1.75
WMC Mortgage Corp. (8)	2.38	3.98	1.62	1.71	2.87	1.13	2.09	3.15	1.57
Argent (9)	2.10	2.70	1.97	1.52	2.23	1.22	2.34	3.26	1.94
Long Beach (10)	1.99	3.93	0.90	3.59	7.29	1.46	6.13	11.79	2.58

Some of the trends for the 2005 data were similar for 2004. Wells Fargo, WAMU and Bank of America showed greater market share presence in the county than in the state. Ominously, subprime lender, Long Beach Mortgage, shows the greatest jump in market share in Oakland with 6.13% of all loans and 11.79 of purchase loans in Oakland. That 11.79% for home purchase in Oakland is the highest share for any lender in California 2005.

### Top Rate-Spread (Higher-Cost) Lenders in Alameda County and Oakland by Market Share, 2004-2005

We then undertook the same examination in the universe of the high-cost, Rate Spread Lenders. In Alameda County, the top three Rate-Spread lenders in 2004 were Fremont Investment and Loan, Long Beach Mortgage and New Century, respectively. In Oakland, Fremont Investment and Loan, Long Beach Mortgage and Countrywide were the top three rate-spread lenders overall that same year.

Three Rate-Spread lenders that engaged in significantly more of their higher-cost lending in Alameda County and Oakland in 2004 than in California as a whole were MortgageIt (owned by Deutsche Bank), Aames Home Loan and Finance America (owned by Lehman Brothers).

These three institutions appear in the top 10 for Rate-Spread lenders for the county and for Oakland but do not appear in the top 10 for the state of California. (See Chart 5.)

**Chart Five: TOP TEN RATE SPREAD LENDERS – CALIFORNIA COMPARED TO ALAMEDA COUNTY AND OAKLAND – BY MARKET SHARE AND RANK, 2004<sup>44</sup>**

Lender	CA	CA	CA	Ala.	Ala.	Ala.	Oak	Oak	Oak
	Rank	Market Share	Total Loans	Rank	Market Share	Total Loans	Rank	Market Share	Total Loans
Fremont Investment & Loan	1	8.57	22,094	1	15.39	1,023	1	22.22	558
WMC Mortgage	2	7.34	18,937	4	5.48	364	6	3.23	81
New Century	3	6.93	17,887	3	6.00	399	8	2.99	75
Argent	4	6.12	15,797	8	3.85	256	5	3.39	85
Countrywide	5	5.99	15,458	5	5.42	360	3	7.49	188
Ameriquet <sup>45</sup>	6	3.99	10,300	-			-		
Lehman Brothers Bank <sup>46</sup>	7	3.48	8,968	10	2.90	193	-		
Long Beach Mortgage	8	3.32	8,574	2	10.77	716	2	15.65	393
National City Bank, IN <sup>47</sup>	9	2.85	7,352	-			-		
Encore Credit Corp.	10	2.80	7,213	9	2.93	195	4	4.70	118
Finance America <sup>48</sup>	-			6	4.95	329	9	2.87	72
MortgageIt, Inc. <sup>49</sup>	-			7	4.03	268	7	3.15	79
Aames Funding Corp. <sup>50</sup>	-			-			10	2.55	64

When we examine the presence of these lenders in the purchase versus refinance market for the state compared to the county and to Oakland, we see that Fremont Investment and Loan had 8.57% of the California subprime market overall in 2004, but it had 15.39% of the Alameda County subprime market overall, and a whopping 22.22 % of Oakland's subprime market overall. Fremont Investment also had 25.93% of Oakland's subprime refinance market compared to 17.92% of Alameda County's subprime refinance market and 8.66% of California's subprime refinance market.

Some similarly sharp contrasts in subprime market share are shown for Long Beach Mortgage, which also concentrated its higher-cost lending in Oakland and Alameda County versus the State of California as a whole. For example, Long Beach in 2004 had 24.59% of Oakland's subprime purchase market, 15.57% of Alameda County's subprime purchase market, but only 5.26% of California's subprime purchase market.

<sup>44</sup> This includes all home purchase, home improvement and refinance loans made on owner occupied dwellings.

<sup>45</sup> Ameriquet was ranked 11<sup>th</sup> in Alameda County.

<sup>46</sup> Lehman was ranked 11<sup>th</sup> in Oakland.

<sup>47</sup> National City was ranked 12<sup>th</sup> in both Alameda County and Oakland.

<sup>48</sup> Finance America was ranked 13<sup>th</sup>.

<sup>49</sup> MortgageIt was ranked 12<sup>th</sup>.

<sup>50</sup> Aames was ranked 14<sup>th</sup> in California and 16<sup>th</sup> in Alameda County.

**Chart Six: TOP TEN RATE SPREAD LENDERS – CALIFORNIA COMPARED TO ALAMEDA COUNTY AND OAKLAND – BY MARKET SHARE (OVERALL, PURCHASE AND REFINANCE), 2004**

Top Ten California Rate Spread Lenders, Overall, 2004	CA Overall	CA Purchase	CA Refi.	Ala. Overall	Ala. Purchase	Ala. Refi.	Oak Overall	Oak Purchase	Oak Refi.
	Market Share %								
Fremont Investment & Loan (1)	8.57	9.15	8.66	15.39	13.83	17.92	22.22	19.37	25.93
WMC Mortgage Co. (2)	7.34	10.54	5.31	5.48	6.30	5.04	3.23	3.65	3.10
New Century (3)	6.93	8.22	5.84	6.00	8.29	3.52	2.99	3.65	2.23
Argent (4)	6.12	3.83	7.96	3.85	2.08	5.26	3.39	1.74	4.22
Countrywide (5)	5.99	6.75	5.55	5.42	5.90	5.04	7.49	7.91	7.32
Ameriquest (6)	3.99	*	7.39	2.06	*	4.10	*	*	1.35
Lehman Brothers Bank (7)	3.48	3.2	4.2	2.9	3.43	2.62	2.43	3.30	1.83
Long Beach (8)	3.32	5.26	1.76	10.77	15.57	5.88	15.65	24.59	7.80
Encore Credit (9)	2.80	1.47	4.41	2.93	1.35	4.88	4.70	2.61	7.00
Mortgageit, Inc. (10)	2.31	1.40	3.47	4.03	1.71	6.85	3.15	1.39	5.01

By the next year, in 2005, New Century had moved up in California overall from number three to number one. WMC stayed at number two. Fremont Investment dropped to number six. For Alameda County and Oakland, Long Beach became number one. New Century became number two. Fremont Investment became number three. Part of why this information is significant is because of these institutions' problematic lending practices, as discussed on page 26. For example, Fremont Investment was called to task by one of the federal regulators for failing to adequately manage its risk.

**Chart Seven: TOP TEN RATE SPREAD LENDERS – CALIFORNIA COMPARED TO ALAMEDA COUNTY AND OAKLAND, BY MARKET SHARE, 2005<sup>51</sup>**

Lender	CA	CA	CA	Ala.	Ala.	Ala.	Oak	Oak	Oak
	Rank	Market Share	Total Loans	Rank	Market Share	Total Loans	Rank	Market Share	Total Loans
New Century	1	8.82	50,013	2	10.33	1,729	2	9.63	668
WMC Mortgage	2	8.14	46,119	4	7.58	1,262	5	6.83	474
Long Beach	3	6.83	38,692	1	16.49	2,747	1	20.77	1,441
Argent	4	6.59	37,350	5	6.62	1,102	4	7.49	520
National City Bank, IN	5	5.27	29,860	6	3.63	605	9	2.80	194
Fremont Investment & Loan	6	5.23	29,625	3	7.87	1,311	3	7.87	546
Countrywide	7	4.83	27,383	10	2.89	482	7	3.10	215
BNC Mortgage	8	3.44	19,516	9	2.94	489	6	3.18	221
Encore Credit Corp.	9	3.44	19,479	13	1.87	311	11	2.13	148
Option One	10	3.33	18,879	7	3.24	539	8	2.87	199
Finance America	15	1.56	8,847	8	3.04	507	10	2.71	188

<sup>51</sup> This includes all home purchase, home improvement and refinance loans made on owner occupied dwellings.

## What Became of the Top 5 Rate Spread Lenders in Alameda County and Oakland

As we indicated at the beginning of our discussion on mortgage lenders with a strong market presence in Alameda County and Oakland, some have run afoul of regulators, and others have gone bankrupt or ceased operations.

- ♦ New Century went bankrupt in April of this year (2007). It became the subject of a criminal investigation a month earlier for accounting errors. New Century was founded in 1995 by former Option One managers.<sup>52</sup>
- ♦ Federal regulators issued a cease and desist order to Fremont Investment in early 2007 for failing to have adequate risk policies and procedures in place with regard to its subprime mortgage lending (and commercial lending as well).<sup>53</sup> In fact, "The FDIC determined, among other things, that the bank had been operating without adequate subprime mortgage loan underwriting criteria, and that it was marketing and extending subprime mortgage loans in a way that substantially increased the likelihood of borrower default or other loss to the bank". In connection with this order, Fremont Investment exited the subprime lending business.
- ♦ Long Beach Mortgage, which settled a lawsuit brought by the federal department of justice in 1996 for racial discrimination in lending, is being closed this year by its parent company, Washington Mutual (WAMU). WAMU purchased Long Beach in 1999. Long Beach had experienced a series of downgrades in its mortgage-backed securities pools over the course of 2007. For historical purposes, it is worth noting that Long Beach Mortgage was a spin-off of the wholesale part of the business of Long Beach Savings & Loan – the precursor to Ameriquest.
- ♦ WMC Mortgage, owned by General Electric, (GE) has experienced losses that contributed to the decision to cut more than half of WMC's workforce this year. GE announced plans in July of 2007 to sell its subprime lending division.
- ♦ Argent Mortgage was a sister company of Ameriquest, with both operating under the umbrella of ACC Capital Holdings. ACC Capital sold Argent and ACC's servicing portfolio to Citigroup in September of this year. Argent had not been performing well financially this past year, having experienced losses that lead to the downgrade of millions of dollars worth of mortgage-backed securities.

These lenders are just the top 5 of the Rate Spread lenders in Alameda County and Oakland. With their poor financial performance nationally, it seems likely that their business practices contributed to the high default and foreclosure rates locally in Alameda County and Oakland.

## Racial Disparities in Mortgage Lending in Oakland, Top Ten Lenders by Market Share, 2004-2005

Home mortgage lending data for Oakland raises questions about racial disparities in where higher cost and higher risk lending was done. For example, World Savings had a stronger presence in Oakland's African-American and Latino market in 2004 than it did in Oakland's White home mortgage market. (See Chart Eight below.)

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<sup>52</sup> *New Century, Biggest Subprime Casualty, Goes Bankrupt (Update4)*, (2007) Bloomberg.com, available at <http://www.bloomberg.com/apps/news?pid=20601087&refer=home&sid=aXHDSbOcAChc>

<sup>53</sup> *FDIC Issues Cease and Desist Order Against Fremont Investment & Loan, Brea, California, and its Parents*, (2007) FDIC, available at <http://www.fdic.gov/news/news/press/2007/pr07022.html>

Similarly, some financial institutions that engage only in prime rate (lower cost) lending have a smaller presence in the market of people of color in Oakland. For example, we see that in 2004, Washington Mutual had 6.20% of the mortgage market overall in the state and almost 7% of the market share in both Alameda County and Oakland. While WAMU had a 7.65% market share with White borrowers, it had only a 4.56% market share with Latino borrowers. Meanwhile, WAMU's subprime lending unit, Long Beach Mortgage, had a 30% market share with Latinos.<sup>54</sup> Bank of America and Wells show similar disparities by race. In fact, in those instances where a given lender's market share increases for people of color in Oakland (as compared to white borrowers), the lender is usually a higher-cost, subprime lender. (Three of the lenders where this phenomenon is visible are New Century, National City and Argent.)

Notably, Bank of America had a 21.77% share of loans made in Oakland to Native Americans in 2004. However, subprime lender Long Beach Mortgage had an even bigger share at 22.78%. Please note that the total number of loans made may have been small. These were, presumably, prime rate loans.

**Chart Eight: TOP TEN LENDERS – CALIFORNIA, ALAMEDA COUNTY AND OAKLAND OVERALL COMPARED TO OAKLAND BY RACE, BY MARKET SHARE, 2004**

Top Ten Lenders, California, Overall, 2004	CA	Ala.	Oak	Oak	Oak	Oak	Oak	Oak	Oak
	Overall	Overall	Overall	White	Afri-Am.	Lat./Hisp	Asian	PI/Haw	Am. Ind./Alaskan
Countrywide	7.1	4.72	5.31	4.34	6.50	6.26	5.74	5.54	7.59
Washington Mutual	6.20	6.98	6.96	7.65	5.46	4.56	7.57	6.57	3.80
Wells Fargo Bank	5.97	8.69	7.67	9.77	5.69	2.80	8.35	6.22	6.08
Bank of America	4.75	6.82	7.05	8.48	4.51	9.08	8.35	5.19	21.77
World Savings	4.15	7.36	8.93	5.06	17.25	12.32	5.41	9.34	2.53
National City Bank, IN	3.55	2.59	2.50	2.15	2.90	3.02	2.58	4.15	1.01
New Century	2.65	1.77	1.14	0.84	1.78	1.52	1.37	2.77	2.53
Argent	1.99	0.92	0.83	1.10	1.33	1.01	0.48	1.73	0.76
Chase Manhattan Mort	1.97	2.38	2.38	2.48	1.23	1.20	3.05	*	0.25
GMAC Mortgage Corp	1.86	0.94	0.88	0.62	0.74	0.32	0.78	*	0.25

We undertook the same analysis for 2005 and found similar disparities, charted below. Please note that Long Beach Mortgage, which joined the 2005 list at number 10 overall in California, had only 1.99% of the state's market share, but 6.13% of Oakland's market share overall. In Oakland, Long Beach had a particularly strong presence in the Latino market (with 13.43% of that market) compared to 6.52% of the White market share and 7.77% of the African-American market share in the city.

Another striking example is the fact that World Savings had 13.86% of the African-American mortgage market in Oakland compared to 5.12% of the White market. That is, in fact, one of the highest shares of any lender to any group in any of the jurisdictions in

<sup>54</sup> Per 2000 and 2006 Census data, Asians went from 15.2% of Oakland's population in 2000 to 15.6% in 2006. Native Hawaiian/Pacific Islanders went from .5% to .7%, Latinos grew from 21.9% to 25.9%, and Native Americans grew from .5% to .9%. In this same time period, the White population grew to 34.1%, compared to 31.3% in 2000.

2005. This means that a tremendous amount of Option ARMS were made to African-Americans in Oakland. That is one of the highest shares of any lender.

**Chart Nine: TOP TEN LENDERS – CALIFORNIA, ALAMEDA COUNTY AND OAKLAND OVERALL COMPARED TO OAKLAND BY RACE, BY MARKET SHARE, 2005**

Top Ten Lenders, California, Overall, 2005	CA	Ala.	Oak	Oak	Oak	Oak	Oak	Oak	Oak
	Overall	Overall	Overall	White	Afri-Am.	Lat. / Hisp	Asian	PI/Haw	Am. Ind./Alask
Countrywide	7.28	4.61	4.60	4.04	4.96	4.34	5.73	4.90	3.46
Wells Fargo Bank	5.66	8.60	7.13	8.84	4.16	2.79	8.01	3.09	6.92
Washington Mutual	5.47	6.97	5.94	6.04	4.44	3.28	8.39	4.64	1.73
World Savings Bank	4.00	6.85	7.38	5.12	13.86	8.36	4.78	6.96	5.76
Bank of America	3.38	4.54	4.81	5.79	2.37	5.09	6.55	5.93	16.71
National City Bank, IN	2.78	2.34	1.86	1.87	1.86	2.30	2.31	1.55	*
New Century Mortgage	2.76	2.32	2.93	3.19	4.12	5.28	1.61	2.06	2.31
WMC Mortgage Corp.	2.38	1.71	2.09	1.55	3.08	2.57	2.12	4.12	2.59
Argent	2.10	1.52	2.34	3.28	3.01	3.65	1.42	3.09	2.31
Long Beach	1.99	3.59	6.13	6.52	7.77	13.43	4.72	9.79	9.80

## Racial Disparities in Mortgage Lending in Oakland, Top Ten Rate Spread Lenders by Market Share, 2004-2005

We then turned our attention to racial disparities in Oakland with regard to high-cost, Rate-Spread Lenders. We found that some Rate-Spread Lenders had a strikingly high percentage of the market share of loans made to people of color.

For example, Fremont Investment and Loan had a whopping 30% of the Pacific Islanders/Hawaiian market share, over 29% of the African-American market share, and over 20% of the Native American market share in 2004, compared to 17% of the White market share. (See Chart Ten.) We also found interesting variations. For example, Long Beach Mortgage, with a 3.32% share of all rate-spread lending in the state, had 10.77% of the rate-spread loans in Alameda County in 2004, and 15.65% of the rate-spread loans in Oakland that year. Fremont's market share was also much greater in Oakland than it was at the state level. (See Chart Ten.)

**Chart Ten: TOP TEN RATE SPREAD LENDERS – CALIFORNIA, ALAMEDA COUNTY AND OAKLAND OVERALL COMPARED TO OAKLAND BY RACE, BY MARKET SHARE, 2004**

Top Ten California Rate Spread Lenders, Overall, 2004	CA	Ala.	Oak	Oak	Oak	Oak	Oak	Oak	Oak
	Overall	Overall	Overall	White	Afri-Am.	Lat. / Hisp	Asian	PI/Haw	Am. Ind./Alask
Fremont Investment & Loan	8.57	15.39	22.22	17.01	29.51	17.35	14.72	30.00	20.63
Long Beach	3.32	10.77	15.65	22.55	13.00	30.13	14.72	12.50	33.33
Countrywide	5.99	5.42	7.49	8.76	6.32	10.09	6.06	5.00	7.94
Encore Credit	2.80	2.93	4.70	5.28	6.67	4.89	2.16	7.50	1.59
Argent	6.12	3.85	3.39	5.28	3.63	2.05	3.46	10.00	--
WMC Mortgage Co.	7.34	5.48	3.23	2.58	2.46	2.21	10.82	10.00	--
Mortgageit, Inc.	2.31	4.03	3.15	2.84	1.17	1.10	6.49	2.50	6.35
New Century	6.93	6.00	2.49	2.32	2.58	2.52	6.93	5.00	6.35
Finance Amer.	1.95	4.95	2.87	2.45	2.22	3.31	4.33	--	3.17
Aames	1.59	1.43	2.55	2.06	2.81	1.58	0.87	--	--

We undertook the same process in 2005 for Rate Spread Lenders and found disparities. For example, Long Beach Mortgage had 6.83% of the California's overall market share but had 16.49% of Alameda County's market share and 20.77% of Oakland's.

**Chart Eleven: TOP TEN RATE SPREAD LENDERS – CALIFORNIA, ALAMEDA COUNTY AND OAKLAND OVERALL COMPARED TO OAKLAND BY RACE, BY MARKET SHARE, 2005**

Top Ten California Rate Spread Lenders, Overall, 2005	CA	Ala.	Oak	Oak	Oak	Oak	Oak	Oak	Oak
	Overall	Overall	Overall	White	Afri-Am.	Lat. / Hisp	Asian	PI/Haw	Am. Ind./Alask
New Century	8.82	10.33	9.63	11.51	9.86	11.43	7.72	5.88	6.96
WMC Mortgage	8.14	7.58	6.83	5.68	7.36	5.25	9.82	11.03	7.83
Long Beach	6.83	16.49	20.77	24.94	18.52	29.01	24.04	26.47	28.70
Argent	6.59	6.62	7.49	11.32	7.31	7.50	7.19	6.82	6.09
National City Bank, Indiana	5.27	3.63	2.80	2.99	2.69	2.30	2.98	2.94	*
Fremont Investment & Loan	5.23	7.87	7.87	6.46	11.26	6.33	4.74	5.15	10.43
Countrywide	4.83	2.89	3.10	2.32	3.85	2.11	2.63	5.88	3.48
BNC Mortgage	3.44	2.94	3.18	2.29	3.75	3.33	2.46	5.15	4.35
Encore Credit Corp.	3.44	1.87	2.13	2.43	2.31	1.36	*	5.15	*
Option One	3.33	3.24	2.87	2.47	3.22	2.20	3.16	2.94	1.74

### Top Mortgage Lenders in “Hot Spot” Neighborhoods in Oakland, 2004-2005

We gave special attention in this report to a selection of Oakland neighborhoods that have a particularly high number of people of color, and significant rates of homeownership. These are in zip codes 94601, 94603, 94605, 94609 and 94621. These zip codes have high numbers of people of color and significant homeownership rates (see Appendix 1 for demographics and maps of these zip codes).

We charted who the top 10 lenders were in these zip codes for 2004 and 2005. World Savings and Long Beach Mortgage are the top two, with Countrywide at number three. Remember that World Savings specializes in Option ARMS, while Long Beach Mortgage was a subprime lender. In the other words, the data shows us that a significant percentage of the lending done in Oakland was comprised of Option ARMS and subprime loans.

**Chart Twelve: TOP TEN LENDERS – OAKLAND “HOT SPOT” ZIP CODES, BY MARKET SHARE, 2004**

Lender	Select	Select Oakland Zip Codes	Select Oakland Zip Codes
	Rank	Total Loans	Market Share
World Savings Bank	1	1,025	12.25
Long Beach Mortgage	2	872	10.42
Countrywide Home Loans	3	576	6.88
Bank of America	4	512	6.12
Fremont Investment & Loan	5	467	5.58
Washington Mutual Bank	6	424	5.07
Wells Fargo Bank	7	379	4.53
National City Bank, Indiana	8	256	3.06
Downey Savings & Loan	9	214	2.56
Encore Credit Corp.	10	188	2.25

We then compared this list to the top 10 list of all lenders making loans in Oakland in 2004 (See Chart Three) to see whether the two matched up. We found that World Savings was in the number one spot on both lists, doing the most business across the city overall and in the Hot Spot zip codes. Notably, however, in the number two spot on the Hot Spots list, instead of Wells Fargo Bank, we see Long Beach Mortgage. Wells Fargo bank is ranked only 7<sup>th</sup> in its lending in the Hot Spot zip codes. In number three on the hot spots list is Countrywide.

Also notable is Washington Mutual Bank, which was the number three lender overall in Oakland in 2004, but only 6<sup>th</sup> in the Hot Spot zip codes. Meanwhile, its high-cost, subprime arm, Long Beach Mortgage, was number two in lending that year to Oakland's Hot Spot zip codes. In other words, prime rate (lower cost) lenders did less business in Oakland's Hot Spot zip codes than they did in the city overall. In the case of Washington Mutual, that difference is all the more striking because it owns a subprime unit that was doing a tremendous amount of business in those same zip codes.

The next year, in 2005, World, Wells and Washington Mutual held the same one, two and three spots in mortgage lending in Oakland overall. In the Hot Spot zip codes, World, Long Beach and Countrywide held the one, two and three spots.

**Chart Thirteen: TOP TEN LENDERS – OAKLAND “HOT SPOT” ZIP CODES, BY MARKET SHARE, 2005**

Lender	Select	Select Oakland Zip Codes	Select Oakland Zip Codes
	Rank	Total Loans	Market Share
World Savings Bank	1	927	9.73
Long Beach Mortgage	2	902	9.46
Countrywide Home Loans	3	459	4.82
New Century Mortgage	4	408	4.28
Washington Mutual Bank	5	403	4.23
Argent	6	360	3.78
Bank of America	7	342	3.59
Wells Fargo Bank	8	335	3.51
Fremont Investment & Loan	9	320	3.36
WMC Mortgage	10	265	2.78

## Top Rate-Spread Mortgage Lenders in “Hot Spot” Neighborhoods in Oakland, 2004-2005

Just two subprime lenders - Fremont Investment and Loan and Long Beach Mortgage - had over 42% of the subprime market share in Oakland in 2004.

**Chart Fourteen: TOP TEN RATE SPREAD LENDERS – OAKLAND “HOT SPOT” ZIP CODES, BY MARKET SHARE, 2004**

Lender	Select	Select Oakland Zip Codes	Select Oakland Zip Codes
	Rank	Total Loans	Market Share
Fremont Investment & Loan	1	337	24.67
Long Beach Mortgage	2	250	18.30
Countrywide Home Loans	3	124	9.08
Encore Credit Corp.	4	74	5.42
Aames Funding Corp.	5	49	3.59
Argent	6	38	2.78
Decision One Mortg.	7	34	2.49
National City Bank, IN	8	34	2.49
New Century	9	28	2.05
Meritage	10	27	1.98

In 2005, Long Beach was far and away the leader in market share in the Hot Spot zip codes in Oakland, with 22.32% of the market share. The next three lenders on the list- New Century, Argent and Fremont Investment- had over 25% of the market share, combined. (See Chart Fifteen, Below.)

**Chart Fifteen: TOP TEN RATE SPREAD LENDERS – OAKLAND “HOT SPOT” ZIP CODES, BY MARKET SHARE, 2005**

Lender	Select	Select Oakland Zip Codes	Select Oakland Zip Code
	Rank	Total Loans	Market Share
Long Beach	1	849	22.32
New Century	2	377	9.91
Argent	3	327	8.60
Fremont Investment & Loan	4	288	7.57
WMC Mortgage Corp.	5	241	6.34
BNC Mortgage	6	128	3.37
Countrywide	7	119	3.13
Option One	8	95	2.50
Finance America	9	94	2.47
National City Bank, IN	10	93	2.45

## Conclusion

In an industry rife with regulators, you would think that protections would already have been in place to stop abuses against consumers long before the subprime melt-down and foreclosure nightmare homeowners are experiencing, not just in Oakland and Alameda County, but nationally. At the very least, you would expect swift, decisive, corrective action to have been taken once it became apparent that wide-spread abuses were occurring that harmed consumers (and harmed the market as a whole with a negative ripple effect economically that has been felt globally). Those regulators at the federal level include the Department of Housing and Urban Development (HUD), the Federal Depository Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), the Office of Thrift Supervision (OTS), the Federal Reserve Board (FRB), the Federal Home Loan Bank (FHLB), and the Securities and Exchange Commission (SEC). That is a total of 6 regulatory agencies governing various kinds of lenders and various aspects of the lending process. The mission of the 7<sup>th</sup> institution, the SEC, is “to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation”<sup>55</sup>.

Instead, these agencies moved very slowly, issuing “guidance” to the industry—not new, mandatory regulations—in September of 2007. The guidance, though an important start, does not address all of the abuses that lead to the current crisis.

Furthermore, ironically, several of these federal agencies declared several years ago that they are to be the only entities allowed to regulate the business behavior of the financial institutions that they govern—thereby stripping states and cities of their ability to fully protect their citizenry.<sup>56</sup> Yet these agencies did not protect the public from the industry or the industry from itself. To the extent that California state regulators have been entrusted with governance of brokers, realtors and appraisers, they too moved with insufficient alacrity to prevent abuses in this sector.

<sup>55</sup> See the Securities and Exchange Commission website at <http://www.sec.gov/about/whatwedo.shtml>

<sup>56</sup> See *THE OCC's PREEMPTION CAMPAIGN: A SERIOUS THREAT TO THE VIABILITY OF STATE BANKING REGULATION* (2002), available at <http://www.corp.ca.gov/pressrel/03/fmf/itnfmf052103Wilmarth.htm#1>. The OTS has also claimed preemption.

We expect 2008 to be an even more devastating year for Alameda County and Oakland unless steps are taken to save homeowners from foreclosure. Many more adjustable rate mortgages are scheduled to have a rate increase in the coming 12 months. There are lessons to be learned from the data and the homeowner stories about the negative effects of our mortgage market as it is currently structured and operated. The policy recommendations that follow are beginning steps to avoiding this kind of debacle in the future, with one of the recommendations geared towards helping homeowners in distress right now.

# Policy Recommendations

Mortgage products for most homeowners need to have predictability in terms of payment rate. They cannot generally afford large increases in monthly payments, or sudden increases. They need long-term affordability, especially as they become older and are likely to have a lower income in their retirement years.

High-cost mortgage products marketed by lending institutions in Alameda County and Oakland have hurt higher-income homeowners as well as low and moderate income homeowners. However, low and moderate income homeowners do not have resources or the access to resources of higher-income residents.

With these facts in mind, we recommend the following:

## Help For Homeowners Right Now

- 1) Lenders/servicers/investors holding adjustable rate loan notes issued in 2005 through the end of 2006 should modify the loan terms such that homeowners are able to maintain payments; that could mean turning the adjustable rate into a fixed rate and rolling the interest rate back to the introductory rate.

## Help for Seniors to Keep Their Homes

- 2) Special mortgage products need to be developed for seniors that take into account their reduced income and need for payment flexibility when emergency needs arise that reduce available income for a short period of time (not just reverse mortgages, which result in a homeowner living off of their home equity).

## Mandatory Loss Mitigation (Foreclosure Avoidance) Protocols For Lenders/Servicers/Investors

- 3) Loss mitigation should be mandatory for all mortgage loan products nationally so that homeowners can be assured that whoever owns the promissory note must provide reasonable opportunities to the homeowner to bring the home loan current or restructure it such that it is affordable.

## Help for Low and Moderate Income Homeowners

- 4) Adjustable rate mortgages marketed to low and moderate income homeowners should not have prepayment penalties that lock homeowners into a particular loan
- 5) Adjustable rate mortgages for low and moderate income homeowners should not increase by more than a modest amount in order to avoid homeowners' experiencing an increase that they cannot afford

## Elimination of Products And Compensation Structures That Encourage Abuses

- 6) Stated income loans should not be permitted as they have given brokers the opportunity to mislead and defraud borrowers (and lenders), resulting in the consumer's loss of the home
- 7) Yield spread premiums should be prohibited as they have the effect of encouraging brokers to place borrowers in more expensive loans than what they qualify for

## **Independent, Trustworthy Counseling For Homeowners And Homebuyers**

- 8) Housing counseling for all homeowners should be mandatory to help ensure that an independent, third party has helped the homeowner understand the transaction before finalizing it
- 9) More funding should be provided to HUD-certified housing counseling services so that homeowners and homebuyers can have adequate access to services

## **Improvement Of Loan Term Disclosure Requirements**

- 10) Disclosures on all mortgage products should be made on the basis of the fully amortized rate and show when adjustments upward in rate will occur
- 11) Mortgage documents, including the loan note and all disclosures, should be written in the language that the deal was negotiated in

## **Reform And Enforcement Of Regulations To Curb Abuses**

- 12) Existing laws regulating mortgage broker conduct should be vigorously enforced by state regulators, as well as local city attorneys, district attorneys and law enforcement
- 13) Lenders should be held to a high standard of due diligence in verification of information on mortgage documents, to ensure that fraud is minimized
- 14) The home appraisal system should be reformed to ensure that values are not falsely inflated, which can have deleterious effects on the homeowner, lender and the market generally

# Methodology

The mortgage default and foreclosure sales data in this report for Alameda County spans approximately 15 years, from 1993 through most of 2007. The report analyzes the number, frequency and location of Notices of Default and Notices of Trustee's Sale recorded with the county, as these are the two, legally required notices that must be issued for a foreclosure to proceed. The maps in Appendix one help to show this data for the county as a whole and by city across Alameda County.

We gave special attention to Oakland as one of the cities that most affected by foreclosures and analyzed the frequency and number of Notices of Default and Notices of Trustee's Sale by zip code over the past two years. Maps in Appendix one help to show this information. For Oakland, we also examined the interplay of poverty rate, homeownership rate, and race with each stage of foreclosure (first the Notice of Default, then the Notice of Trustee's Sale). We examined other factors, such as home prices, home appreciation and home sales that may have affected foreclosure rates and have, in turn, been affected by foreclosure rates over the past couple of years. Home price and appreciation information covers Alameda County and Oakland, drilling down to the zip code level in Oakland, and focusing on the 2005-2007 time period. The report's demographic analysis and some of the more in-depth foreclosure and loan analysis focus on a selection of Oakland zip codes that we referred to as "Hot Spots" because they have a particularly high number of people of color and/or significant rates of homeownership. These are zip codes 94601, 94603, 94605, 94609 and 94621.

Home loan data in this report covers Alameda County and Oakland, using the State of California as a basis for comparison in some cases. We provided a more detailed picture of loan data for the City of Oakland. Loan analysis is based primarily on Home Mortgage Disclosure Act (HMDA) data. HMDA was passed by Congress and is intended to provide the public with loan data that can be used: (i) To help determine whether financial institutions are serving the housing needs of their communities; (ii) To assist public officials in distributing public-sector investment so as to attract private investment to areas where it is needed; and (iii) To assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.

HMDA applies to certain financial institutions, including banks, savings associations, credit unions, and other mortgage lending institutions. The regulation requires an institution to report data to its supervisory agency about home purchase loans, home improvement loans, and refinancings that it originates or purchases, or for which it receives applications; and to disclose certain data to the public. Other data that lenders are required by HMDA to report include the race, ethnicity, and income of all loan applicants and their neighborhoods, as well as loan pricing information for high cost home loans. The HMDA analysis for this report includes the years 2004 and 2005. The 2006 data is newly out and is not included. We included 2003 HUD Subprime Lender Data. The data we have provided is intended to provide a snapshot of who has been doing high-cost lending in the City of Oakland and Alameda County. The default and foreclosure data helps to paint a picture of the impact of that lending on homeowners in Oakland and countywide.

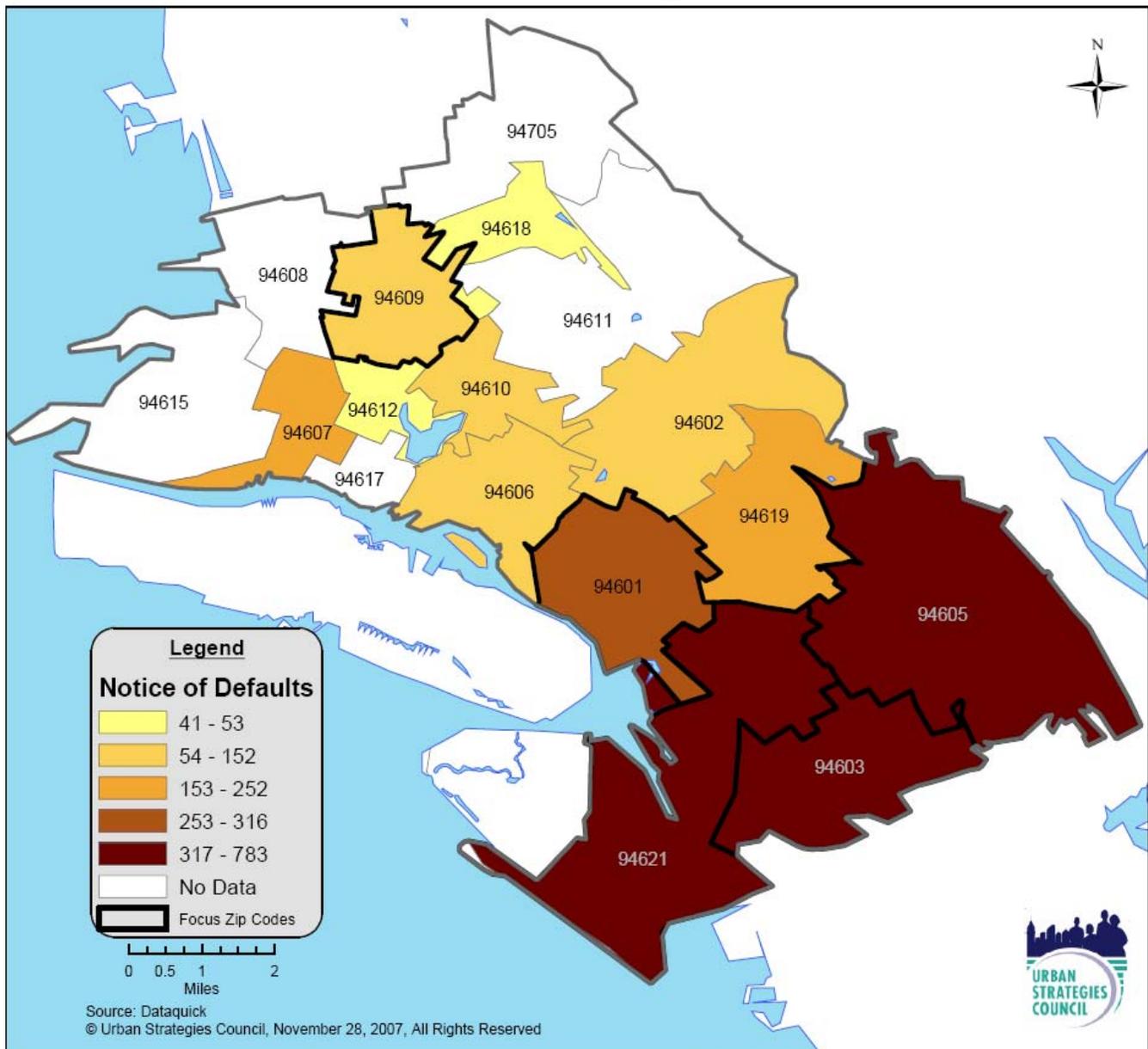
Anecdotal data from homeowners surveyed and interviewed during the study period (2006-2007) has also been included.

# APPENDICES

## Appendix 1

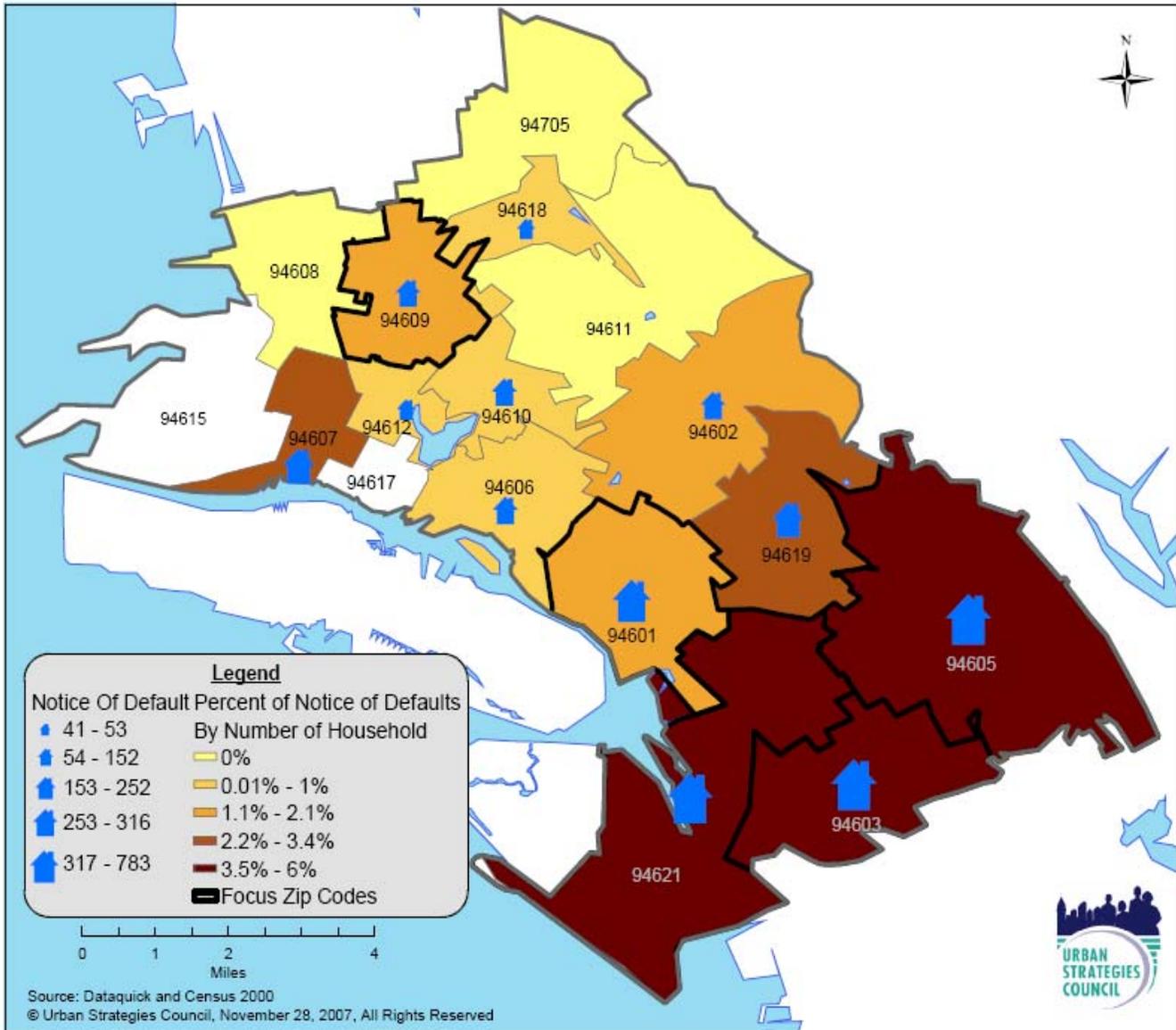
### MAPS OF NOTICE OF DEFAULT AND NOTICE OF TRUSTEE'S SALE FOR OAKLAND AND ALAMEDA COUNTY

## Notice of Defaults 01/2006-09/2007 For Oakland Zip Codes



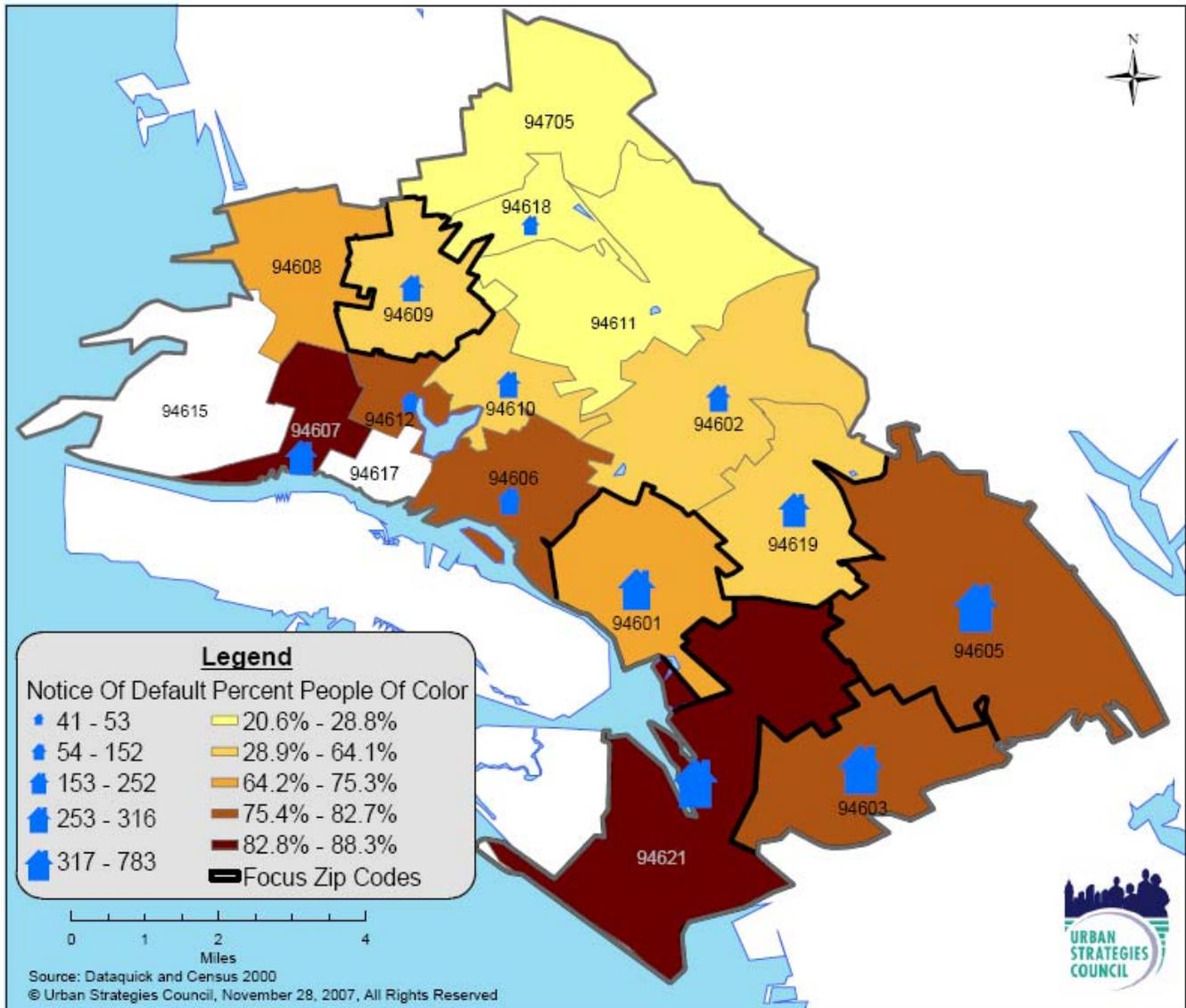
MAP 1

## Rate of Notice of Defaults per Household 01/2006-09/2007 For Oakland Zip Codes



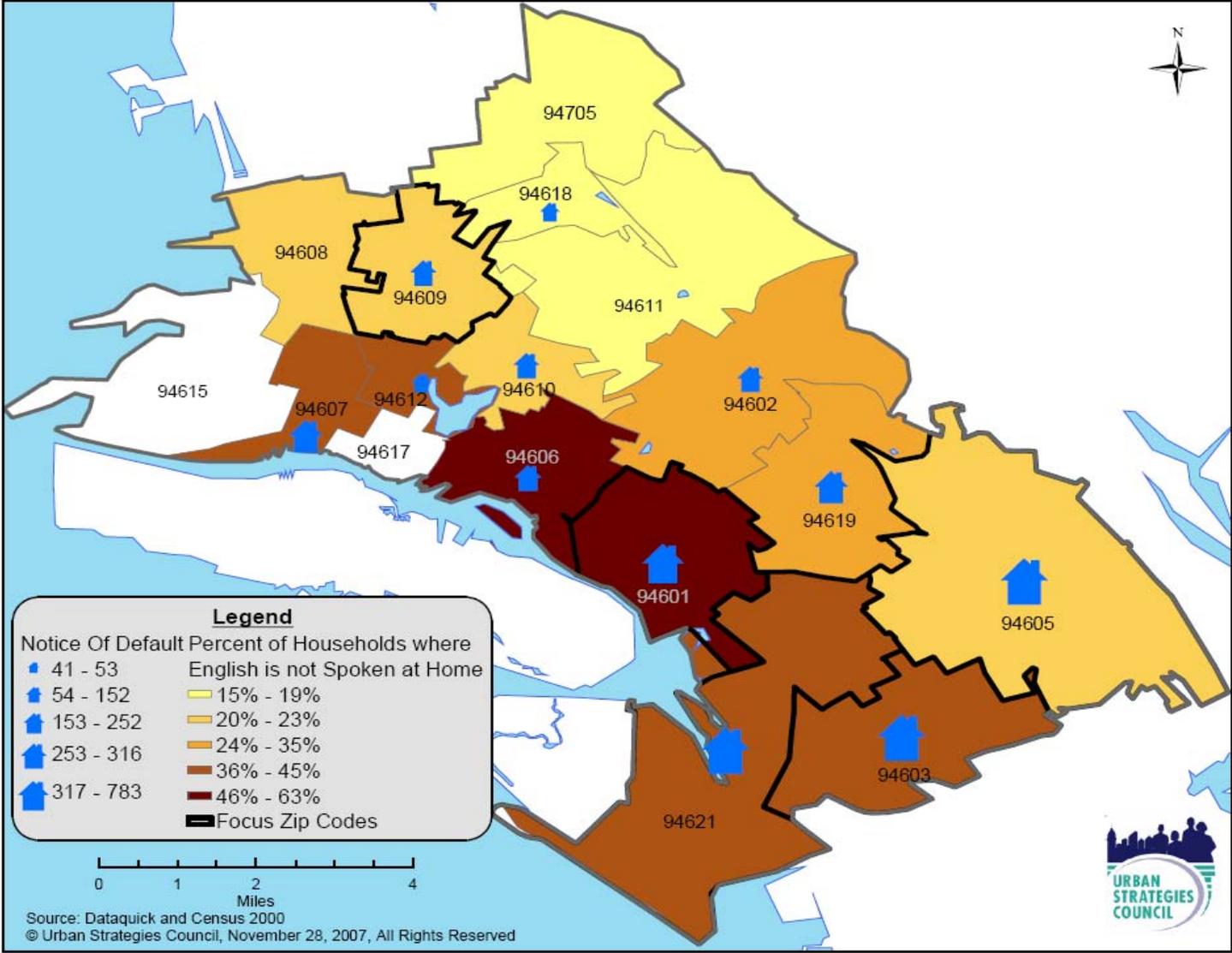
MAP 2

## Percent Persons of Color with Notice of Defaults from 01/2006-09/2007 For Oakland Zip Codes



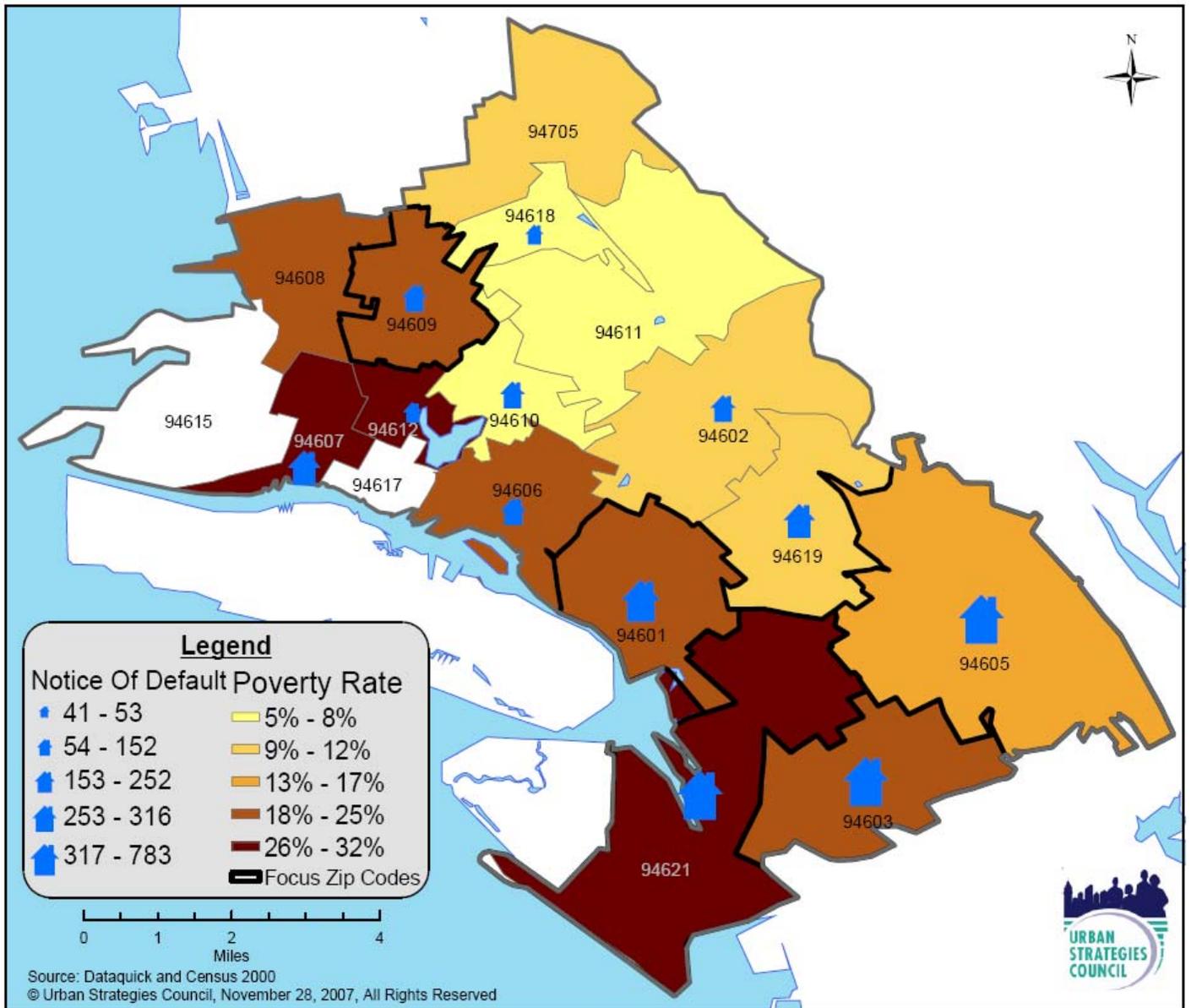
MAP 3

# Percent of Households where English is Not Spoken at Home with Notice of Defaults 01/2006-09/2007 For Oakland Zip Codes



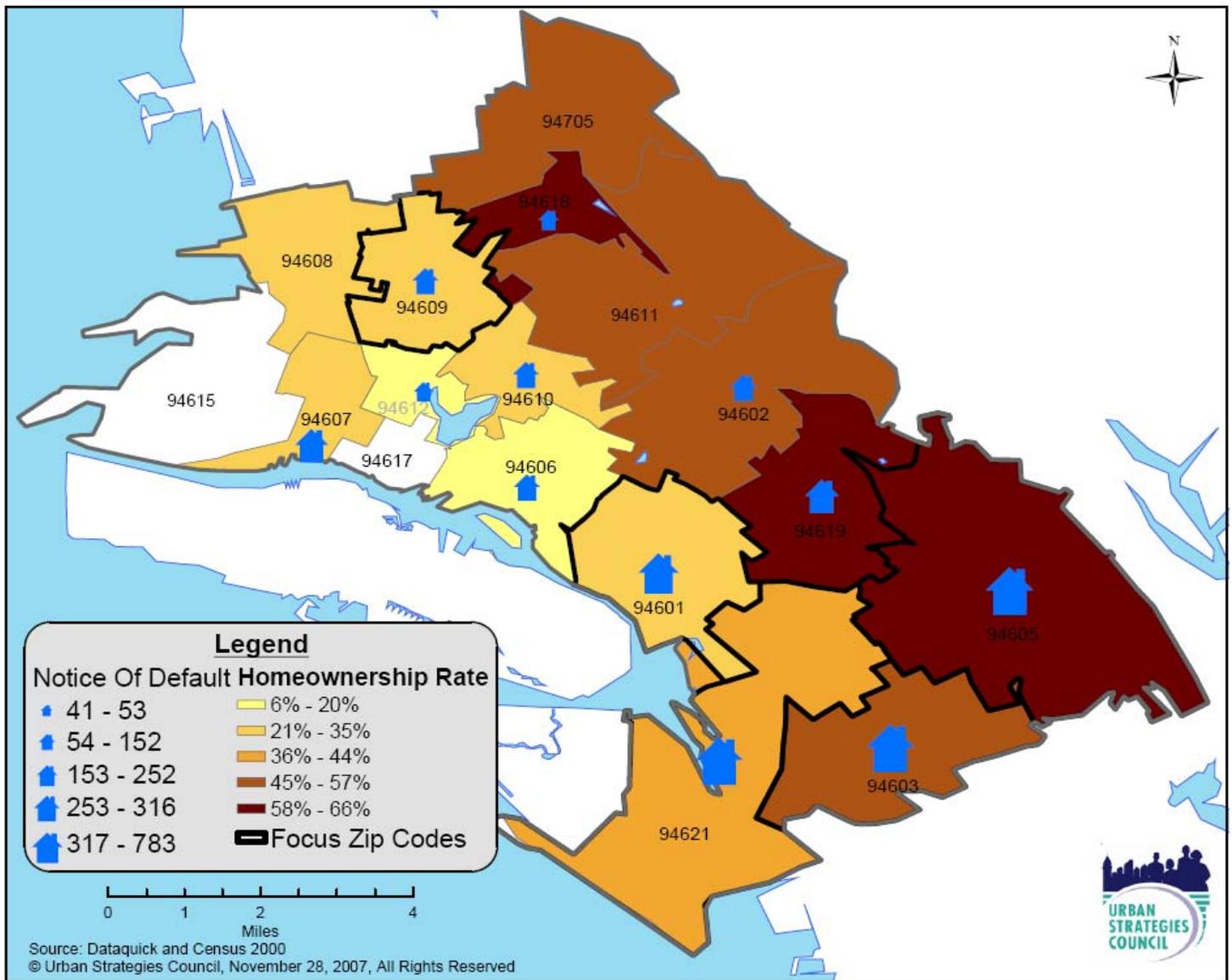
MAP 4

# Poverty Rate with Notice of Defaults 01/2006-09/2007 For Oakland Zip Codes

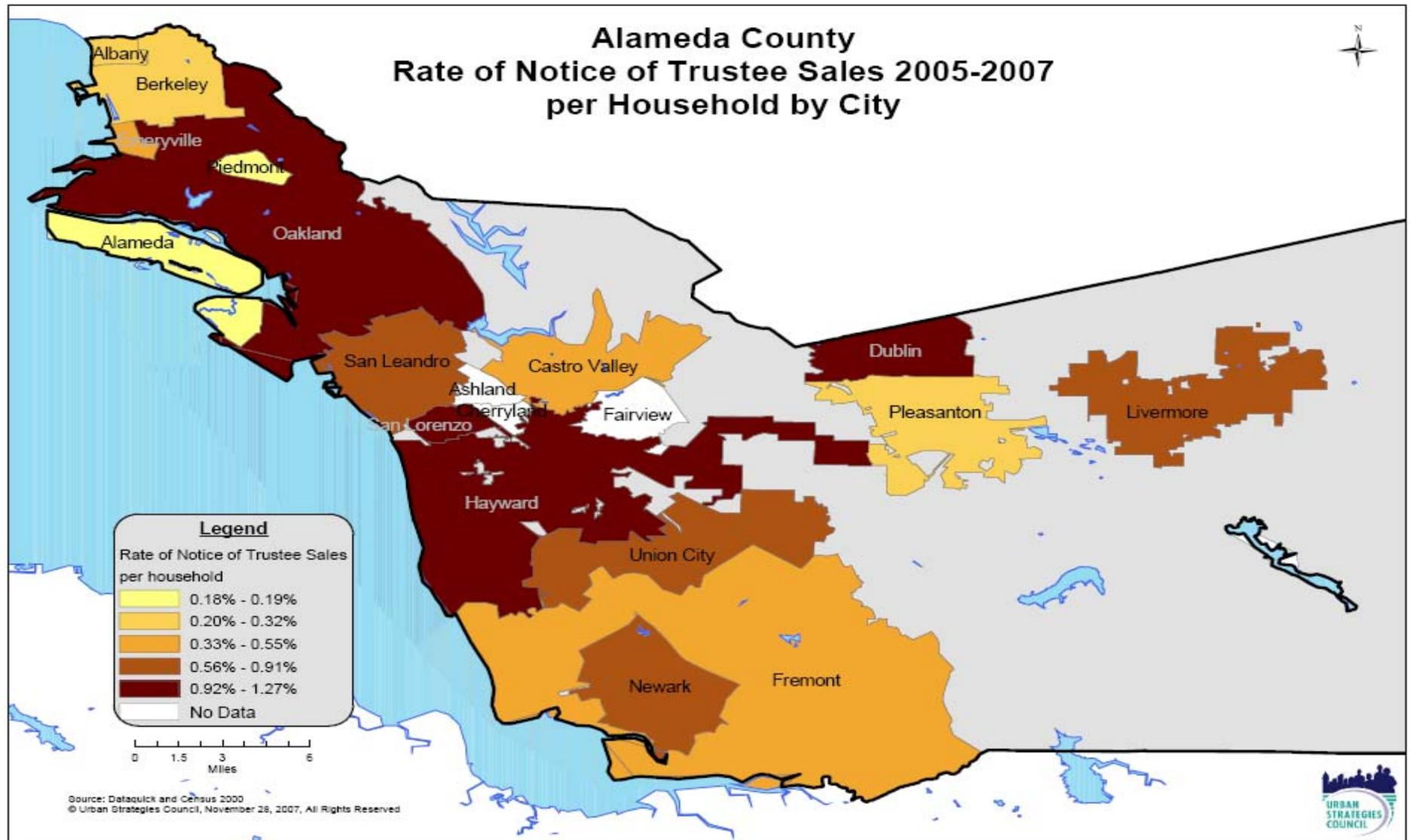


MAP 5

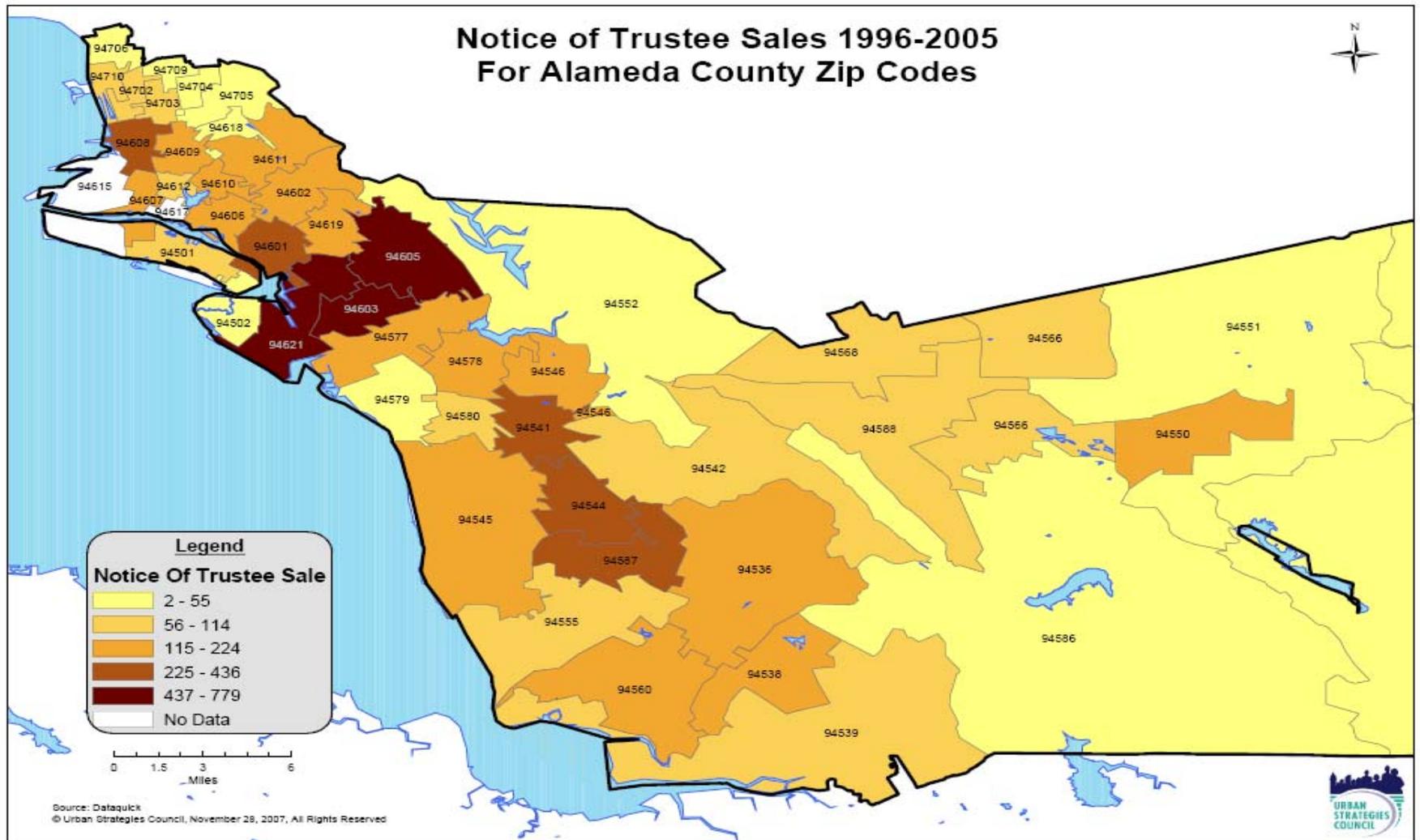
# Home Ownership Rate with Notice of Defaults 01/2006-09/2007 For Oakland Zip Codes



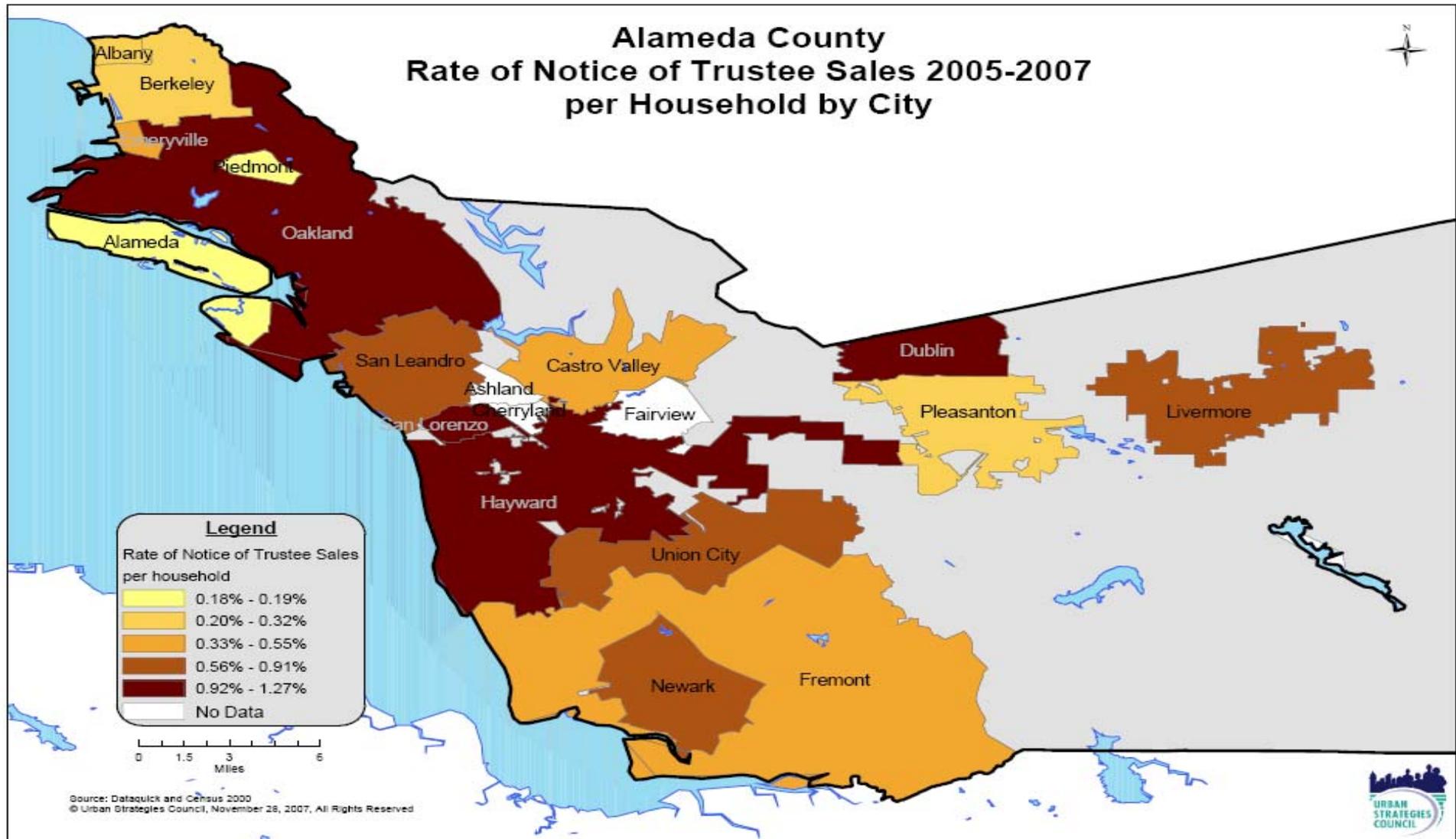
MAP 6



MAP 7

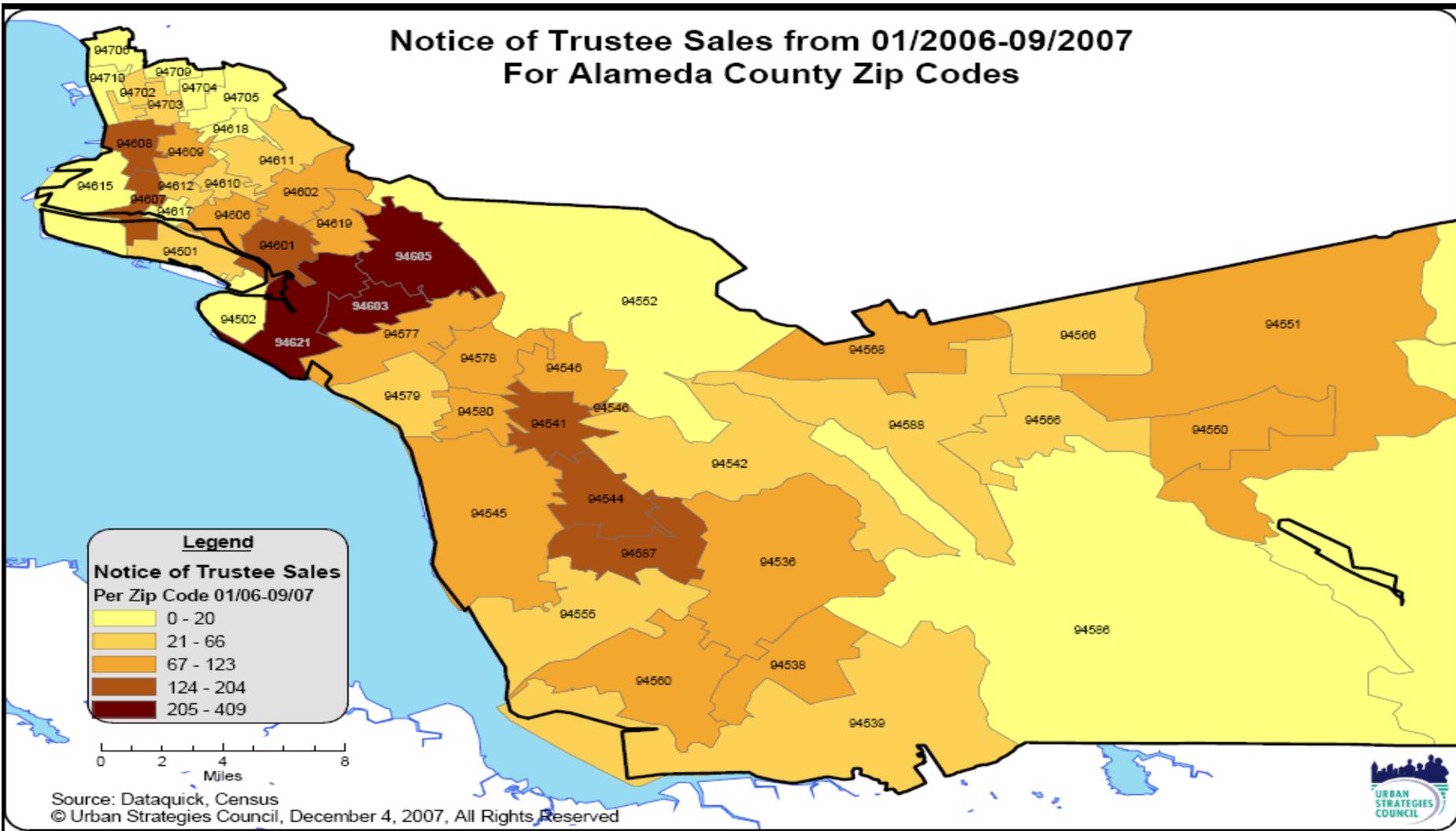


MAP 8



MAP 9

## Notice of Trustee Sales from 01/2006-09/2007 For Alameda County Zip Codes



## Appendix 2 - HOMEOWNER SURVEY

# HERA

housing and  
economic  
rights advocates

### Oakland Homeowner Home Loan Satisfaction Survey

**DEAR OAKLAND HOMEOWNER:** We are surveying homeowners as part of our research project on homeowner satisfaction with their home loan. Your response will help to document whether Oakland homeowners are satisfied OR, alternately, are not pleased with their current home loans. Housing and Economic Rights Advocates ("HERA") is a non-profit agency dedicated to economic justice in housing for California residents. We are located in Oakland.

**Please take a moment** to fill out this survey and mail it back to us in the self-addressed stamped envelope. (ATT: HERA, P.O. Box 29435, Oakland, CA).

**If you have any questions**, please feel free to call us at (510) 271-8443. If you would prefer, one of our organizations can also assist you to complete this survey form over the phone. Thank you for your time.

1. What is the name of your current home loan lender? (NOTE: If you have more than 1 home loan, please list all lenders)
2. Are you happy with current mortgage loan(s)? Please state briefly why or why not.
3. Do you feel the interest rate on your home loan(s) is too high? If yes, please list your loan's interest rate.
4. Do you feel your monthly payments are too high? If so, please state why. Please also list what is your current monthly mortgage payment(s).
5. Did you pay closing costs and fees at the time you took out your loan(s)? If yes, do you know how much you paid?
6. Did you get the loan(s) you thought you would? If not, please explain briefly why.
7. Did a mortgage broker help you to get your loan(s)? If so, do you remember the broker's (or his/her company's) name and city location?
8. As far as your current home loan(s), how did you find out about your lender? (e.g., referral from family member or friend, from broker or realtor, from an advertisement, etc.)
9. Do you remember what your broker (OR lender) said your loan terms would be like when you first applied for your home loan(s)? (e.g., monthly payment, interest rate, fees, etc.)
10. Is your current loan what you were told it would be OR is it different than what you expected? If different, please state how? (e.g., higher interest rate, higher fees, different loan terms, not fixed rate, has a pre-payment penalty, etc.)
11. Do you know what your current FICO score (Fair Isaac's Company Credit score) is? Yes  No
12. Would you like help in understanding and/or addressing problems with your loan(s)? Yes  No
13. Would you be willing to be asked additional survey questions about your loan(s)? Yes  No

(If you answered yes to Question #'s 12 &/or 13, please provide us your name and telephone number(s) in the spaces below. We will call you shortly to set up an in-person appointment for either a free housing counseling and/or loan document review appointment). Thank you for responding to this survey!

\_\_\_\_\_  
[PRINT ABOVE] Your Name

Daytime Tel. no.: \_\_\_\_\_  
Cell / Home Tel. no. \_\_\_\_\_

## Encuesta sobre la satisfacción con sus Hipotecas de propietarios de vivienda en Oakland

### Estimados propietarios de vivienda en Oakland:

Esta encuesta se está llevando a cabo como parte del Proyecto de investigación anti préstamos abusivos que se está llevando a cabo en Oakland ("el Proyecto") por tres organizaciones sin fines de lucro que trabajan para hacer cumplir los derechos de los consumidores, - Housing and Economic Rights Advocates ("HERA").

Por favor, dedique un momento a completar estas breves preguntas y envíenlas en el sobre con dirección y sello que se acompaña (ATT: HERA, P.O. Box 29435, Oakland, Ca 94604).

Su respuesta ayudará a conocer si los propietarios de vivienda en Oakland están satisfechos o no con sus actuales préstamos de vivienda. Si tiene cualquier pregunta, puede llamarnos al número (510) 271-8443. Si lo prefiere, una de nuestras organizaciones puede ayudarle a llenar el formulario por teléfono.

Gracias por su tiempo.

1. ¿Cuál es el nombre del actual prestamista del préstamo de su vivienda? (NOTA: Si usted tiene más de 1 préstamo, enumere por favor a todos los prestamistas)
2. ¿Está contento con su(s) actual(es) préstamo(s) hipotecarios? Por favor indique brevemente el por qué
3. ¿Siente usted que el tipo de interés de su(s) préstamo(s) de vivienda es demasiado alto? Si es así, por favor indique el tipo de interés del préstamo.
4. ¿Siente que sus pagos mensuales de la hipoteca (mortgage loan) son demasiado altos? Si es así indique por favor por qué. Indique también cual es actualmente el pago mensual de su hipoteca.
5. ¿Pagó usted costos de cierre y honorarios cuando le concedieron el préstamo? ¿Si es así, sabe cuánto pagó?
6. ¿Consiguió el/los préstamo(s) que considera que le corresponderían? Si no es así, por favor explique brevemente el por qué.
7. ¿Le ayudó algún agente a conseguir el préstamo? ¿Si es así, recuerda el nombre del agente (o su compañía) y su localización en la ciudad?
8. ¿Como encontró a su actual prestamista ? (por ejemplo, se lo recomendó algún miembro o amigo de la familia, el agente o en la inmobiliaria, a través de un anuncio, etc.)
9. ¿Recuerda usted cuáles iban a ser los términos del préstamo según su agente (o según el prestamista) cuando solicitó el préstamo de vivienda en un primer momento? (por ejemplo, cuota, tipo de interés, honorarios, etc.)
10. ¿Es su préstamo actual como le habían dicho o es diferente de lo que esperaba? ¿Si es diferente, por favor indique de qué forma? (por ejemplo, un tipo de interés u, honorarios más altos, diferentes, términos del préstamo, tarifa variable, penalización por pagos adelantados, etc.)
11. ¿Sabe cuál es su actual puntuación crediticia (credit score) (FICO)? Sí  No
12. ¿Desearía ayuda para entender y/o resolver los problemas que tenga con el préstamo? Sí  No
13. ¿Estaría dispuesto a contestar preguntas adicionales sobre su préstamo? Sí  No

(Si usted contestó sí a las pregunta # 12 y/o 13, por favor proporciónenos su nombre y número de teléfono en los espacios previstos abajo. Pronto nos pondremos en contacto con ud. para hacer una consulta gratuita en persona y/o revisar la documentación de su(s) préstamo(s). ¡Gracias por responder a esta encuesta!

\_\_\_\_\_  
[ESCRIBA ARRIBA] Su Nombre

Número de teléfono durante el día: \_\_\_\_\_  
Cell / Número de teléfono de casa: \_\_\_\_\_