

**Written Testimony of Linda Higgins, Minnesota Senate, District 58
Before the Subcommittee on Housing and Community Opportunity
January 23, 2010**

Chairwoman Waters and honorable members of the Committee, my name is Linda Higgins and I am the Minnesota State Senator from District 58 and I proudly represent North and Downtown Minneapolis. In the Minnesota Senate, I am the chair of the Public Safety Budget Division.

It is an honor for me to appear before you today to discuss housing issues and foreclosure prevention in Senate District 58.

For several years, I have carried and passed legislation related to foreclosures and the devastation that results. Visitors to my office are used to seeing maps showing the foreclosures by year in Minneapolis. Jaws drop when they see, graphically displayed, the density of foreclosures in my district, and the change from year to year. Many comment that there are so many dots overlaid on other dots that there is no base map that can be seen. Clearly, we are ground zero for foreclosures in our city, our county, and our state. Minneapolis Mayor RT Rybak says it this way, "When Minneapolis gets the sniffles, North Minneapolis gets pneumonia."

I'd like to describe the state of my district after years of foreclosures. Some of the 16 neighborhoods are slowly recovering. Foreclosed properties have been repurchased for considerably less than the previous price. Some young families have been able to purchase great houses that are in pretty good shape. Others are buying homes that have been rehabbed with NSP funds. Others are taking a chance and buying what could kindly be called "fixer-uppers."

Other homes, however, are being snapped up by investors. Some are clueless about how to rehabilitate a building and get good tenants. Others think that the laws really aren't meant for them. They buy a house for pennies, paint the walls, scrub the kitchen appliances, and rent it out. They forget the small details like the condemnation order and the requirements for lifting the condemnation and getting a new certificate of occupancy and the need for a rental license.

A case in point is a condemned four-plex near my house. It was bought by a consortium of investors from North Dakota. The consortium bought about 50 properties and hired someone local to get them in shape to rent. It's now been eight months since he started working on the building. He's failed the final inspection, so it's still condemned. He lied about being an asbestos-abatement contractor and illegally removed asbestos, and got caught. City inspections staff have told me that his work at other properties is also shoddy.

Another four-plex near my house also was recently sold. It's been neglected for decades and has been the scene of shootings, fires, and fights. The neighbors contacted a reputable nonprofit organization and asked if it would bid on the building. The nonprofit

inspected the building and determined that it would be a good addition to its other properties, which are rented to low-income families. It had the high bid, but the lender would not sell to it because it was using NSP funds and the lender didn't want the red tape. It was sold to someone else, who recently re-sold it to another nonprofit developer who I believe will be a good, responsible owner.

Many residents in our neighborhoods are seeing opportunities in the availability of homes at modest prices. They are buying properties near their homes and are restoring them. They usually become responsible rental property owners, in part because of the proximity of their home and rental property.

But still, there are many blocks in North Minneapolis with more than one vacant house. That proves challenging especially in the winter. The sidewalks go unshoveled, pipes will freeze if they weren't winterized. Sometimes squatters move in. If the house becomes open to trespass, it will get boarded up. And according to a 2001 study in Philadelphia, houses within 150 feet of a vacant or abandoned property experienced a net loss of \$7,627 in value, making it more of a burden on nearby residents.¹ In addition, a study in Austin, Texas, found that "blocks with unsecured [vacant] buildings had 3.2 times as many drug calls to police, 1.8 times as many theft calls, and twice the number of violent calls" as blocks without vacant buildings.²

The Minneapolis Public Housing Authority serves members of our community and provides approximately 5,800 public housing rental units city wide, many of which are in my district.³ There is a great need for additional affordable housing in the community. The most recent opening of the Section 8 waiting list took place on June 12 and 13, 2008, with applications available both online and in paper. In these two short days, close to 14,000 applications were received.⁴

We need more affordable housing options and more funding for affordable housing. We faced a budget deficit in Minnesota for the 2008-2009 budget, we are currently addressing the deficit for the 2010-2011 budget and we know we will face a tremendous deficit for the 2012-2013 budget. So in Minnesota we have a very challenging budget deficit to deal with now and in the next few years, and it makes it impossible for us to do the investments we need to in affordable housing.

¹ Temple University Center for Public Policy and Eastern Pennsylvania Organizing Project, "Blight Free Philadelphia: A Public-Private Strategy to Create and Enhance Neighborhood Value," Philadelphia, 2001.

² William Spelman, "Abandoned Buildings: Magnets for Crime?" *Journal of Criminal Justice* 21.5 (1993): 481.

³ Minneapolis Public Housing Authority. "MPHA Overview." n.d. Web. 20 Jan. 2010. <<http://www.mphaonline.org/agencyfa.html>>.

⁴ Minneapolis Public Housing Authority. "Section 8 Housing Choice Voucher Program Waiting List." n.d. Web. 20 Jan. 2010. <<http://www.mphaonline.org/s8waitl.html>>.

Efforts in the Minnesota Senate to Address Foreclosure Prevention

Minnesota has been a strong advocate for predatory lending reform and foreclosure resources and prevention. I am very proud to have worked on this legislation. In 2007, I carried a Predatory Lending Prevention package in the Minnesota Senate.⁵ This package addressed several predatory lending prevention measures including requiring mortgage lenders to verify a borrower's ability to repay the loan; prohibiting refinancing that did not benefit the borrower; requiring that mortgage lenders must act in the best interest of the borrower; requiring individuals to receive financial counseling before refinancing a "special mortgage"; banning financial penalties for repaying a subprime loan before its conclusion; requiring that a mortgage originator must orally inform a borrower of additional taxes and fees that will be associated with the loan the first time the originator quotes a rate to the borrower; allowing borrowers to sue if they are harmed by predatory lending or an over-inflated home appraisal; and finally, the package made mortgage fraud a specific crime.

In 2008, I carried a bill related to foreclosure sale publication of notice in the Minnesota Senate.⁶ In many foreclosure cases where properties have been abandoned, the properties become a nuisance to neighbors and the community with exposure to weather damage, lack of upkeep, drug and illegal activities taking place, and theft of copper pipes and other salvageable materials. This law allows the foreclosure process with abandoned properties to be expedited by making it easier to use the five-week redemption period. The law states that if a debtor fails to show up at a district court hearing to show cause for the reduced redemption period, it is considered conclusive evidence of abandonment of the property.

In addition to foreclosure prevention measures, I also worked on resources for foreclosure victims in 2008.⁷ The law I worked on removes the cap of \$5,500 for mortgage foreclosure assistance provided under the Minnesota Housing Finance Agency's Foreclosure Prevention Assistance Program, tying it instead to a fluctuating economic indicator (110% of the greater of state or applicable metropolitan statistical area median monthly owner cost of owner-occupied housing, as estimated by the United States Census Bureau using data collected in the most recent American Community Survey, multiplied by six).

In 2009, I continued the work I did in 2008 and carried a large package in the Minnesota Senate that addressed property issues related to foreclosed homes.⁸ The new law allows the holder of the mortgage or Sheriff's certificate to protect vacant and unoccupied

⁵ Laws of Minnesota 2007, Chapter 18 and Laws of Minnesota 2007, Chapter 74

<<https://www.revisor.leg.state.mn.us/data/revisor/law/2007/0/2007-018.pdf>>

<<https://www.revisor.leg.state.mn.us/data/revisor/law/2007/0/2007-074.pdf>>

⁶ Laws of Minnesota 2008, Chapter 178

<<https://www.revisor.leg.state.mn.us/data/revisor/law/2008/0/2008-178.pdf>>

⁷ Laws of Minnesota 2008, Chapter 362

<<https://www.revisor.leg.state.mn.us/data/revisor/law/2008/0/2008-362.pdf>>

⁸ Laws of Minnesota 2009, Chapter 123

<<https://www.revisor.mn.gov/data/revisor/law/2009/0/2009-123.pdf>>

premises from trespass (currently they may protect from waste) until they receive notice that premises are occupied. For abandoned properties, they are required to make periodic inspections and install or change locks on all windows and doors. For abandoned properties, they may board windows, doors or other openings, install and operate alarm systems, and may take any other measures to prevent damage from the elements, vandalism, trespass, or other illegal activities. We included language that would provide notice of requirements, opportunity to request a hearing, and duty to protect the abandoned premises as well as timelines for complying and requesting a hearing and notice of costs incurred by the holder of the mortgage or sheriff's certificate to protect abandoned premises (costs may be added to the principal balance of the mortgage or the costs allowable under redemption). We corrected an inadvertent omission of Chapter 581 (foreclosure for action) from a tenant notice bill that was passed in 2008. We heard from people and State Senators (hearing from their constituents) that they were not receiving adequate notice and wondered why they weren't based on the law we passed in 2008. We did some checking and found out from the Hennepin County Sheriff's office that proper notice wasn't being provided because of the accidental omission of Chapter 581. So we corrected the error in the relevant statutes. We also added municipalities to the parties allowed to initiate the process to reduce the time for redemption period in a foreclosure by advertisement.

This new law also contains language concerning trespassing on construction sites by removing overly technical and unnecessary restrictions on the types and placement of "no trespass" signs. Previous law said there must be notices on the building, but a lot of construction sites did not have a building structure, so we now require a certain number of signs based on the size of the construction site. With the dramatic increase in copper thefts, the trespassing provision pertaining to construction sites has become increasingly important to law enforcement and prosecutors.

In this law we also made changes to the nuisance property statute. The increasing number of foreclosed and vacant properties has led to a dramatic increase in the number of problems and nuisance activity occurring on these properties. We defined owner and occupant of these buildings because it is often difficult to cite the responsible party and obtain an order of abatement. Illegal parties where alcohol is sold for profit have been increasing in abandoned properties. A violation of this nature will only require one instance.

Efforts in the Minnesota Senate to Enforce Protections for Renters Affected by Foreclosure

Minnesota has passed several progressive measures to address renter protection for those affected by foreclosure. In 2008, I carried a bill in the Minnesota Senate related to landlord and tenant notices.⁹ This law provides notice rights to tenants who are victims of foreclosure by requiring landlords to tell prospective tenants that the property is in foreclosure and by waiving any penalty for a tenant in a foreclosed property withholding

⁹ Laws of Minnesota 2008, Chapter 177

<<https://www.revisor.leg.state.mn.us/data/revisor/law/2008/0/2008-177.pdf>>

the last month's rent. Tenants in this situation are unlikely to get their security deposit back and may have exhausted their ability to receive rental assistance from the county.

I carried another bill in 2008 related to renter protection, specifically related to eviction case expungement.¹⁰ This law provides for mandatory expungement of an eviction if a tenant vacated a foreclosed property prior to the expiration of the redemption period or a tenant never received the required notice to vacate. Many lenders file eviction notices near the end of the foreclosure redemption period to protect their ability to remove holdover tenants. Many tenants, however, have already left the property or never received the notice to leave. It is unfair for renters to be saddled with eviction on their rental record, and this bill helps alleviate the consequences that go along with eviction records.

Another bill in 2008 worthy of noting is a bill carried by Senator Rick Olseen, from Senate District 17; the bill addressed the rights of tenants to pay utility bills.¹¹ This new law gives tenants living in residential buildings better options to maintain or restore utility services when a landlord doesn't pay utility bills.

Federal Resources

Minnesota appreciates the federal resources that have been sent out to the states to address the foreclosure crisis. However, some federal policies impede our progress here in the states. For example, federal legislation preempts the state control of federally chartered lending institutions, making state efforts less effective than they could be. Our 2007 bills have been called the strongest in the nation, but in actuality, only a handful of state banks were actually affected. Since most state legislatures are considerably more nimble than Congress, removing the preemption will allow us to do what needs to be done in a more timely fashion than waiting for a federal solution.

A second suggestion for federal resources includes funds and support for land banking, maybe more appropriately called house banking. Many of the nonprofit housing organizations who are working so hard on the NSP note that there are too many homes on the market now and that holding some back for future sale will continue to provide affordable housing for a longer time. The final suggestion I would give to the committee would be to extend the length of time to use the NSP funds.

Thank you for the opportunity to testify.

¹⁰ Laws of Minnesota 2008, Chapter 174

<<https://www.revisor.leg.state.mn.us/data/revisor/law/2008/0/2008-174.pdf>>

¹¹ Laws of Minnesota 2008, Chapter 313

<<https://www.revisor.leg.state.mn.us/data/revisor/law/2008/0/2008-313.pdf>>