REO to Rental in California: Wall Street Investments, Big Bank Financing, and Neighborhood Displacement

CRC’s Survey of Community-Based Organizations on the Impact of REO to Rental

June 2015
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“You are very slowly changing the society from homeowners to renters. What happened to the American Dream?”

- Staff member at a community-based organization, in response to CRC’s REO Investor Survey.

Executive Summary

The explosion of Wall Street, institutional and cash investor purchases of Real Estate Owned (REO) properties and distressed loan pools has transformed California neighborhoods for the worse. Investors are changing the demographics of local neighborhoods by elbowing out first time homebuyers, raising rents and displacing tenants. This widespread direct and indirect displacement of residents across the state is being fueled by Wall Street and bank financing.

Amidst these changes, CRC conducted a survey of its members, all community-based organizations, to learn how REO investors are affecting community stabilization and development. CRC member organizations serve thousands of people in communities throughout the state, vindicating residents’ rights, organizing for change, promoting economic and housing stability for residents, and creating economic and affordable housing development opportunities for communities. These community groups, having earlier rung the alarm bell on the cusp of the subprime and foreclosure crisis, are now raising concerns about the impacts on communities of REO and other real estate investors.

This report:

1. **Places investor control of real estate—especially “REO to Rental”—within the larger context of financially predatory behavior towards low and moderate income neighborhoods.**

   Over the last two to three years, California neighborhoods have witnessed the latest iteration of Wall Street predation - the purchase in bulk of distressed single-family mortgages and homes (REOs). This shift follows earlier disturbing trends that disproportionately impacted low-income communities and neighborhoods of color - redlining that starved neighborhoods of needed credit, reverse redlining that flooded credit-starved communities with abusive subprime and option ARM loans, concentrated foreclosures, unequal distribution of foreclosure prevention relief, and now, through this latest REO to Rental craze, the transformation of the last vestiges of neighborhood ownership and wealth out of the hands of community residents and into the pockets of Wall Street firms, banks, hedge funds and other investor groups.

2. **Highlights the extreme and harmful impacts of this wave of investment and, in particular, the large scale displacement of community residents.**

   The REO to Rental trend has created higher rents for both renters and for prospective first time homebuyers who are increasingly elbowed out of the market by all-cash offers. Increased investor purchases in local real estate markets has also led to

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1 An REO is a property that was first foreclosed on by a bank, servicer, or government agency but that was not purchased at the foreclosure auction or trustee sale, meaning the property was returned to the owner of the loan, typically a bank, servicer, or government agency.
widespread displacement and to fair lending concerns, as long-term residents and residents of color are forced to leave their communities. Finally, in addition to the quantifiable fiscal harm, the presence of these investors increases resident anxiety and anger about unaffordable rents and home purchases.

3. **Connects Wall Street and bank financing to this community harm.**

Banks have financed and facilitated these concerning trends. For example, Wells Fargo extended a $1 billion credit facility to American Homes 4 Rent, and Bank of America and JPMorgan Chase have made loans to Silver Bay Realty Trust. More dangerous, banks have also aided investors in turning the rental income streams from these properties into securities. According to one securitization pre-sale report, “Wells (Fargo) CMS identified SFR (Single Family Rental) as a new business opportunity to pursue in 2015.” And JPMorgan Chase is reportedly originating a $1.2 billion loan secured by mortgages on 7,265 income producing single-family homes owned by Blackstone and Invitation Homes in what is the largest single-family rental securitization to date.

The proceeds from these securities are fueling the explosion of investor purchases of single family and other homes. As with the subprime mortgage crisis, it is the securitization of housing payments that can transform a problematic product into large-scale harm foisted on local communities. And as with subprime securitization and the ensuing subprime foreclosure crisis, California communities are disproportionately impacted.

4. **Presents the perspective of key community organizations on this dynamic, as reflected in the CRC REO Investor Survey.** 80 representatives from key community organizations serving thousands of Californians and working daily to improve their communities responded to the survey.

**Key findings of the survey include:**

- 80% of respondents felt that large institutional investors have a “negative” impact on clients and neighborhoods;

- More than 1/3 of respondents reported that investor purchasers/landlords are changing neighborhood demographics as there are fewer long-term residents, and there is less income diversity in communities;

- Most respondents felt that banks should NOT, or were uncertain why banks would, get Community Reinvestment Act (CRA) credit for financing or securitizing REO to Rental transactions;

- 77% of respondents said that qualified homebuyers were “always” or “often” losing out to cash investors in their efforts to purchase a home;

- 65% of local real estate professionals who responded said that the presence of cash and institutional investors has “hurt” their business;
Blackstone, Colony, Waypoint and American Residential were the REO to Rental companies named by respondents most frequently as being problematic, though small investors were also cited often as having a negative impact on communities.

5. Proposes key recommendations to prevent further community harm and displacement and acknowledges the strong and critical advocacy already occurring around these issues.

In light of the threat to community stabilization posed by investor control of local housing stock, a number of organizations are advocating for more community control of neighborhood assets, and greater protection against displacement for current residents.

In light of the current crisis of displacement facing communities, CRC recommends:

- **Keeping Homeowners in their homes** through enforcement of foreclosure prevention and servicing rules, requiring Fannie Mae and Freddie Mac to finally allow for principal reduction modifications, and prohibiting corporations that seek to convert homes to REO to Rental from buying distressed loan pools or engaging in loan servicing.

- **Investigating whether REO to Rental and related practices have a discriminatory impact** on homeowners, tenants and communities, in violation of fair housing and fair lending laws.

- **Creating and enforcing stronger tenant protections** to prevent unnecessary displacement of renters.

- **Promoting homeownership** by requiring public and private REO sales to prioritize first time homebuyers, and requiring REO properties to be maintained to an FHA financeable standard.

- **Implementing the Community Reinvestment Act to downgrade CRA grades for problematic bank practices** such as REO to Rental securitization and loans to purchase rent controlled buildings that result in displacement of existing residents as a necessary or foreseeable outcome.

- **FHA, the GSEs and banks prioritizing distressed loan sales to nonprofits** and mission driven entities over investors.

- **Exploring the taxation of REO to Rental Securitizations and Real Estate Investment Trusts (REITs)** in order to help finance the affordable housing needed as a result of REO to Rental and real estate investment practices.

- **Providing greater transparency of REO to Rental deals and LLC entities** to allow local governments and the public the ability to track the performance of investors to see if they are harming communities.
Introduction

The explosion of institutional and cash investor purchases of REO properties and investor purchases of distressed loan pools has transformed California neighborhoods for the worse, according to community based organizations in California. First-time homebuyers and families seeking to buy a home to live in often can’t compete with cash investors and bulk homebuyers. Tenants living in REO homes are charged higher rents, subjected to poor living conditions, and evicted without cause. Investor landlords, both Wall Street firms and smaller investment groups, transform neighborhoods by forcing out long term residents, residents of color, and low-income residents to make way for new, higher income occupants. The widespread direct and indirect displacement of residents that many communities are experiencing is being fueled by investor speculation and bank financing.

This frenzy of investor activity has galvanized community groups to act. In March 2014, the California Reinvestment Coalition (CRC) and Housing and Economic Rights Advocates (HERA) drafted a letter outlining concerns about the impacts of investors on local communities, and calling on federal regulators to take action to slow down the juggernaut of investor purchases and Wall Street ownership of local housing stock. Within one week’s time, eighty local, state and national groups signed on in support.²

CRC then surveyed our membership to hear more directly from community-based organizations and leaders as to how REO investors were impacting their communities. CRC member organizations work in communities throughout the state to vindicate residents’ rights, promote economic and housing stability for California households, and create economic and housing development opportunities for communities. CRC members serve thousands of community residents per month and are leaders in their communities. As they did in raising the alarm before the subprime and foreclosure crisis, the experiences and perspectives of these front line leaders reflect the pulse of communities and serve as a bellwether of what’s in store. Survey responses from CRC members reflect a growing concern about the impacts of investors on communities, explain many of the key dynamics at play, and recommend a path forward by focusing on policy reforms.

This report attempts to:

1. Put in context the REO to Rental boom and investor control of residential real estate.
2. Highlight the extreme and harmful impacts of this wave of investment and, in particular, the large scale displacement of community residents.
3. Clarify the connection of Wall Street and bank financing to this community harm.
4. Capture the perspective of key community organizations about this dynamic, as reflected in the CRC REO Investor Survey.
5. Acknowledge the strong advocacy occurring around these issues, and propose key recommendations to prevent further community harm and displacement.

² See Appendix A for CRC/HERA letter to federal regulators, February 2014.
1. **Growth of REO to Rental: the Latest Iteration of Wall Street Predation.**

Over the last two to three years, California neighborhoods have witnessed the latest iteration of Wall Street predation—the purchase in bulk of distressed single-family mortgages and homes (REOs). This shift follows earlier disturbing trends that disproportionately impacted low-income communities and neighborhoods of color: redlining that starved neighborhoods of needed credit, reverse redlining that flooded credit-starved communities with abusive subprime and option ARM loans, concentrated foreclosures, and unequal distribution of foreclosure prevention relief.³ Now, through this latest REO to Rental craze, the last vestiges of neighborhood ownership and wealth is being transferred out of the hands of community residents and into the pockets of Wall Street firms, banks, hedge funds and other investors.

The volume of these investor purchases of property is unprecedented. Real estate investment trusts, private equity firms, and hedge funds have spent at least $25 billion purchasing more than 150,000 houses since 2012. Similarly, Wall Street has issued more than $8 billion of securities tied to almost 60,000 homes owned by companies such as Blackstone, Colony, and American Homes 4 Rent since 2013.⁴ These firms take out loans secured by thousands of REO to Rental properties they own. The loans are converted into securities sold on Wall Street to multiple investors who will receive the rental income stream from the properties. The effect of this securitization process is to lower the cost of financing for these firms, and thereby to further fuel the REO to Rental craze.

This conduct has had a measurable, negative impact on communities. It has transferred wealth from homeowners to Wall Street denizens and is transforming America from a homeownership society to a rentership society. REO to Rental conversions have increased stress on renter households, displaced long-term residents, and changed the fabric of local communities.

While investor purchases have decreased somewhat in the past year, the trend of investor purchases and resident displacement continues. According to PropertyRadar’s April 2015 report for California, foreclosure sales surged 19% from the prior month, “a sign that financial institutions are pushing to liquidate their foreclosure inventory in order to take advantage of high prices.” Additionally, Notices of Default increased to approximately 6,000 for April 2015 and cash sales represented over 20% of all home sales. Institutional (LLC and LC) sales numbered 1,200 purchases, up slightly from March 2015, and institutional purchases of trustee sales represented 10% of all trustee sales.⁵ Most recently, in early June 2015, Blackstone/Invitation Homes broke the record for the largest securitization backed by single family rental homes.⁶

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⁶ Ben Lane, “Invitation Homes’ new single-family rental securitization is largest ever,” HousingWire, June 8, 2015.
2. Investor Activity Creates Displacement and Harmful Community Impacts.

REO to Rental means higher rents and added stress for tenants. A recent report by Tenants Together raises concerns about Wall Street landlords charging higher than market rates, putting added pressure on the rental housing market. The report examines the experiences of tenants renting single-family homes from the three biggest Wall Street landlords in the state: Blackstone/Invitation Homes, Waypoint Homes, and Colony American Homes.

In addition to finding that Wall Street landlords charge higher than area median rents, the report found many tenants are performing their own maintenance and repairs. Forty percent of tenants report that they made repairs to the home themselves, and 80% report that they pay for yard maintenance. It is unsurprising that Wall Street firms are failing to adequately meet their new property maintenance obligations, given that almost immediately upon entering this business they became among the largest landlords in the country, charged with maintaining scattered site properties in multiple cities across the nation. The challenge of large-scale scattered site property management for a new class of landlords is compounded by the profit motive. In fact, raising rents while reducing costs by neglecting habitability issues are precisely how Wall Street landlords can most profit in the short term from their latest investment.

The limited data available support these findings. In one securitization transaction of REO to Rental properties owned by Blackstone, while rents charged in the underlying properties by Invitation Homes/Blackstone in Sacramento were an estimated 97.5% of market rent, the Blackstone portfolio rents were 104% of market rent in Riverside, and 106% of market rents in Los Angeles. Congressman Mark Takano has noted that “in areas like Riverside, California, which I represent, renters are struggling to make ends meet with incomes that are still more than $5,000 below their pre-recession level and rental costs that have risen $756 over that same period of time.” Similarly, in another securitized rental bond deal involving pooled REO to Rental properties, the underlying collateral included 300 properties in Los Angeles, and the average rents charged on these properties exceeded market rents. In fact, executives of these REO to Rental firms have openly discussed their intention to raise rents. “In the 2015 rental season, we’re really seeing the ability to move rents,” said David

“...I am currently fighting over an issue over making some much needed exterior repairs...I rent a home from Invitation Homes after losing a three year battle to refinance my home with Chase...This home is well on its way to becoming an eye sore. I consider the rents they charge to be excessive given the true state of rehab and maintenance they complete” explains Stella Konisek, an Invitation Homes tenant in Palmdale, California who shared her story with CRC.

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Singelyn, CEO of American Homes 4 Rent, the largest publicly traded single-family landlord, with about 35,000 homes.11 Additionally, the CEOs of Silver Bay, Starwood Waypoint and American Residential Properties all said they plan to raise rents this year. “We are focusing aggressively on rent bumps,” American Residential Properties CEO Stephen Schmitz said. As institutional investors raise rents, local landlords will follow suit, further making local housing markets unaffordable to low and moderate-income households.12

“We have let venture capitalists and investors build housing for people who do not live here…”
- Francisco Herrera, testifying about displacement in San Francisco’s Mission District

Rising rents are not the only pressure on tenants. Those local landlords that do not raise rents may keep their rents low in order to relieve themselves of the responsibility to maintain the condition of their properties. These landlords know that they have a large and competitive pool of would-be renters who are financially strapped enough to accept deteriorating property conditions in order to receive a lower rent.

In addition to the increased costs and deteriorating conditions, investors may have created additional obstacles for tenants. Securitization documents show that would-be renters must meet varying and burdensome eligibility requirements to rent an REO to Rental residence. Most Single Family Rental transactions provided that property managers would screen tenants by reviewing credit and income, rental history, prior evictions and a background check for criminal activity.13 Similarly, most transactions reviewed appeared not to include units rented out to tenants with Section 8 vouchers, raising concerns that the REO to Rental model may present a further barrier for Section 8 tenants in need of affordable housing options. Yet a review of securitization reports did provide one exceptional example - a multi-borrower rental securitization did include units being rented to section 8 voucher holders. One part of this deal secured a loan on 51 properties in the Bakersfield area, with 55% of the properties leased to Section 8 voucher tenants, accounting for 40% of total annual rent.14

**REO to Rental raises fair lending and fair housing concerns.** Advocates for affordable housing, tenant rights and fair housing have expressed concerns that REO to Rental and investor purchase of REO homes will change the demographics of entire neighborhoods, raising fair housing concerns. For example, when Berkshire Group bought a 75 unit building in Oakland in December of 2014, tenants received rent increases and were billed for many services that were previously covered in the rent. In 2014, rents increased in Oakland 21%, but Berkshire raised certain rents 50%. At a January meeting, Berkshire reportedly told tenants that apartments with lower rents—meaning residents who have been in the building longest—would be seeing the highest increases and would be getting notices in a first round of hikes. “I would love to stay if it was possible,” said Caroline Hernandez, who was looking for

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apartments in Walnut Creek and San Leandro because she couldn’t find anything comparable in Oakland.\textsuperscript{15}

Displacement concerns in San Francisco are so dire that the Board of Supervisors recently considered a moratorium on the development of luxury housing in the traditionally working class, Latino Mission District. The hearing lasted for nearly 8 hours as hundreds of residents and organizations assembled and testified passionately about the need to slow the eviction and displacement of long-term, disabled, senior, of color, and local residents. David Campos, the author of the measure and the representative of the Mission District said, “Housing is not affordable to the people who made the Mission...The people of the Mission have organized to save this neighborhood.” Francisco Herrera, one of the last to testify, said, “We have let venture capitalists and investors build housing for people who do not live here... Vote for those who live here and need fair and just housing.” Testimony, including by one of the members of the Board of Supervisors, referred to the “ethnic cleansing” of the neighborhood.\textsuperscript{16}

\textbf{REO to Rental means fewer first time homebuyers and owner occupants.} The REO to Rental wave took numerous homeownership units off the market in favor of creating more rentals, even though these rental opportunities are less affordable and less stable than historically available rental options. Not only have millions of homeowners lost their homes, often unnecessarily, due to foreclosures, but also first time homebuyers and other owner occupants have access to fewer homeownership opportunities. Cash investors prevail over first-time homebuyers- not necessarily because they’re making a higher offer, but because they are offering cash. Moreover, distressed REO property conditions make it harder for home loan borrowers to effectively compete for housing because properties may not pass the inspections required for FHA and other financing programs. Homeowners become renters, renters struggle to attain homeownership, and the competition creates higher rents and worse housing conditions. The pool of aspiring homeowners simply does not have affordable financing

\textsuperscript{15} Sam Levin, “How East Bay Tenants Get Displaced,” East Bay Express, March 2015.

\textsuperscript{16} The hearing can be viewed in its entirety at: \url{http://sanfrancisco.granicus.com/MediaPlayer.php?view_id=10&clip_id=22939}
options comparable to the financing options available to the investment groups buying up homes.

Securitized rental bond deals: Ticking time bombs? Because these institutional landlords hold such large positions in local markets, any decision to exit or modify their position in these communities will have ripple effects for renters and homeowners. For example, many of the securitization deals have a term of five years or less. Community members are rightly concerned about what will happen if investors subsequently and abruptly leave these markets. If these investors sell their portfolios of properties quickly, they will likely depress housing values in local real estate markets. As the Center for American Progress has pointed out “With homes concentrated in a handful of metropolitan areas, a move to sell a large portfolio of homes when a bond matures—or in the case of a loan default—could trigger a return to home-price declines in these neighborhoods and leave many tenants with an uncertain future.”

In addition to concerns about large portfolios being dumped on local markets, Wall Street investor landlords also represent a constant threat of eviction or rent increases for their tenants. If rental streams do not adequately support their securities payment obligations, landlords in jurisdictions without sufficient tenant protections could raise rents or simply evict tenants in favor of higher-income residents. Similarly, as the scale of their housing portfolios increase, communities remain unsure what kind of landlords these investors will be.

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Other investor activity poses harm to communities. Harmful investor impacts on low and moderate-income neighborhoods can take many forms. San Francisco: Flipping Rent Controlled Buildings. In San Francisco, the San Francisco Community Land Trust and the Tenderloin Housing Clinic report a growing concern relating to investors buying rent controlled buildings, invoking the state’s Ellis Act, and moving to evict all of the tenants, many of whom are low-income, disabled and elderly. Investors then convert the formerly rent controlled buildings, now cleared of tenants, into home ownership opportunities selling for astronomical amounts.

The San Francisco Anti-Eviction Mapping Project and Tenants Together estimate that 3,610 units have been removed from the City's rental market, and that at least 10,000 tenants have been displaced by Ellis Act evictions. According to advocates, these displacement-inducing transactions are financed, knowingly or unknowingly, by banks such as First Republic Bank, Circle Bank and Sterling Bank. The Coalition for Economic Survival is advocating around similar issues in Los Angeles where Ellis Act evictions increased 235% in 2014 and are expected to climb in the coming years.¹⁸

Perversely, since many of these rent controlled buildings are in low and moderate-income neighborhoods, banks are most likely seeking credit for originating these loans as part of their Community Reinvestment Act obligation to serve all of their communities, including LMI communities and residents. Worse still, banking regulators are likely giving the sought after CRA credit for these bank loans that are in LMI communities but that facilitate imminent displacement and eviction of low and moderate-income residents. This subversion of CRA must stop.

Fresno: Community Fights Investor Blight. In Fresno, Faith in Community (FIC), a PICO affiliate, and its members grew concerned about a select number of "property management" companies that bought up foreclosed homes in distressed neighborhoods, only to leave them vacant, blighting the neighborhood and serving as crime havens. These companies eventually rent the properties in slum conditions to undocumented families or families without other means, or simply leave them vacant until the entire neighborhood eventually flips.¹⁹ For 229 days, FIC posted a new picture of a boarded up and dilapidated vacant home every day, and built a campaign to address the blight resulting from investor purchases of REO homes.

“After years of deferred maintenance, my apartment building was purchased by an LLC and management was taken over by a company associated with the owners. According to their (now defunct) website, the investment strategy is ‘value added and opportunistic’ while the investment criteria is ‘distressed and under-performing multi-family assets’ Shortly after the building changed hands, the problems began.

Numerous construction projects and demolitions took place without permits and in violation of the EPA’s Lead Renovation, Repair and Painting Rule (RRP Rule) creating dangerous conditions for me, my fellow tenants, workers, and neighbors.

After 4 Stop Work Orders, 2 tenant injuries, and a notice from the Fire Inspector, the building was red-tagged on May 4, 2015, forcing us to move because it was inhabitable. The investors claimed that all work being performed was to make things ‘better’, but now the building sits empty while they move on to the next property.

It’s discouraging to hear that these sorts of activities are being financed by main street banks. Who is watching out for the tenants and communities?” Melissa Hennings, a renter in Oakland, who shared her story with CRC.

¹⁹ http://faithinfresno.org/fic/concentrated-usury.php
Community groups and members participated in a task force that ultimately led to the creation of a strong vacant property registration and maintenance ordinance. The task force minority report noted that the Fresno Police Department considers 45% of abandoned properties to be public nuisances because they are used for drug sales, prostitution and gang activities. In other words, they are a drain on law-enforcement funding and a threat to public safety. The Fresno City Council also agreed to fund four Code Enforcement officers to ensure the city is able to implement the ordinance, acceded to FIC members’ demands that unsightly plywood no longer be used in boarding up homes, and levied daily fines for investors and other companies that violate the ordinance. Members of the task force also sought to include requirements that the City inspect all previously blighted units before they are rented, but this did not make it into the current ordinance. FIC members eagerly await the Mayor’s commitment to a “Phase 2,” that will address the interior conditions of tenant-occupied properties through inspections to ensure compliance with state health and safety standards.  

Los Angeles: Eviction of Section 8 Tenants. In Los Angeles, 90 year-old Catherine Green and her 42 neighbors face eviction from the Boulevard Villa apartment complex at the hands of new owners Lafayette Square Apt. LLC. The new LLC owners reportedly are seeking to terminate the tenants’ section 8 leases due to requirements, paperwork, inspections and “attempts to obtain a rent increase.” Ms. Green, a Los Angeles resident who has been living in her home for over 30 years and will relocate to Atlanta with family once she is forced to leave her home, describes the actions that will displace many elderly and disabled residents: “This ain’t nothing but greed.”

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3. **REO to Rental is Facilitated by Bank and Wall Street Financing.**

**Bank Financing of REO to Rental.** Banks have played an oversized role in financing and facilitating these concerning trends. For one, banks have extended credit to REO to Rental institutional investors and landlords. Wells Fargo extended a $1 billion credit facility to American Homes 4 Rent, and Bank of America and JPMorgan Chase have lent to Silver Bay Realty Trust.  

More dangerous, banks have also aided Wall Street in turning the rental income streams from these properties into securities. The proceeds from these securities are funding the explosion of investor purchases of single family and other homes. As with the subprime mortgage crisis, securitization can transform a problematic product into large-scale harm foisted on local communities. And as with subprime lending, subprime securitization, and the ensuing subprime crisis, California communities are disproportionately impacted.

For example, Wells Fargo is participating in various REO to Rental securitization deals. In **FirstKey Lending 2015-SFR1**, Wells is listed as the master servicer and the certificate administrator (PNC Bank is listed as a special servicer). The collateral for this transaction is comprised of 16 loans that are secured by 3,628 income-producing single family, 2-4 family, and multifamily rental properties. Los Angeles represented the second largest exposure with 14.2% of the properties securing this transaction located in L.A. The Pre-Sale Report notes “Wells (Fargo) CMS identified SFR (Single Family Rental) as a new business opportunity to pursue in 2015.”

Wells Fargo is also listed as the certificate administrator, and Wells Fargo and Citigroup are listed as underwriters in **B2R Mortgage Trust 2015-1**. Of the properties underlying this transaction, 13.4% are in California. Similarly, in **Invitation Homes 2014-SFR1** and **2014-SFR2**, Wells Fargo is the Certificate Administrator. The underlying collateral in these two deals consisted of 6,537 and 3,749 properties, respectively, of which 1,324 and 886 Single Family Home Rentals were in Los Angeles-Anaheim, Riverside-San Bernardino-Ontario, Sacramento-Roseville-Arden-Arcade, Oxnard-Thousand Oaks-Ventura, Vallejo-Fairfield, San Francisco-Oakland-Hayward, Stockton-Lodi, Yuba City, Napa and Modesto.

In **Colony American Homes 2014-2**, JPMorgan Chase Bank, NA was the Loan Seller, and Wells Fargo Bank, NA, was the Certificate Administrator. The underlying collateral for this transaction was 3,727 properties, of which 784 were Single Family Rentals in Los Angeles-Long

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23 The responsibilities of the Certificate Administrator generally include securities administration, preparing monthly distribution reports, preparing and filing all tax returns, and making required advances if the master servicer or special servicer fails to make them. See Moody’s Investor Services, “Invitation Homes 2014-SFR1,” Pre Sale Report, May 19, 2014, p. 17.

Finally, JPMorgan Chase is reportedly originating a $1.2 billion loan secured by mortgages on 7,265 income producing single-family homes owned by Blackstone and Invitation Homes in what is the largest single-family rental securitization to date. California represents the second largest exposure, with 15.5% of all of those properties located in California.

Smaller Investors Are Also Feeding the Securitization Machine. As questions are raised about securitization involving the largest players, and as the REO to Rental phenomenon appears to be receding somewhat, the financing spigot is not closing. The concern over small investors may become more pronounced as Wall Street moves to feed the securitization machine by financing smaller investors and pooling those deals into bonds. The world’s largest investment firms such as Blackstone, Colony Capital, and Cerberus have begun arranging financing for smaller investors who seek to purchase and flip homes for an average gross profit of $70,000 per home, according to Bloomberg. This trend will have the effect of further fueling REO to Rental.

Upstreaming and Other Ways to Secure Properties. These institutional investor landlords obtain foreclosed properties through a variety of channels, including trustee sales, REO sales, transactions with financial institutions and government sponsored enterprises, or by referral from property managers, home builders or multiple listing services. One former Goldman Sachs executive who helped Goldman earn billions by betting against mortgages sought to create a new fund to buy distressed mortgages at a discount and rework them to permit the borrowers to remain in their homes or, if that fails, foreclose on the properties and operate them as rentals.

As another example, Angelo Gordon & Co. is seeking to raise $750 million for a fund to invest in distressed mortgages. The fund is being offered through JPMorgan Chase’s private client group. Likewise, American Homes 4 Rent, Starwood Waypoint Residential Trust and Altisource Residential Corp. began leading acquisitions of nonperforming loans to expand their holdings of rental properties. Blackstone has reportedly purchased a minority stake in Bayview, a buyer of distressed loans. In other words, firms are buying distressed loan pools not for the purpose of reworking loans so families can stay in their homes, but knowing in many cases that they will foreclose and be able to rent out the home.

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26 Ben Lane, “Invitation Homes’ new single-family rental securitization is largest ever,” HousingWire, June 8, 2105.
Survey Findings: Community Group Perspectives on REO to Rental

CRC surveyed our members and allies working in California communities to learn more about their perspectives on investor impacts on neighborhoods. These organizations are serving thousands of local residents by vindicating their rights, organizing with them for change, and creating opportunities for financial stability, affordable housing, homeownership, jobs, and small business ownership. Eighty organizations responded to the survey.

Q1: Impact of large investors on neighborhoods is negative: Overwhelmingly, respondents felt that large institutional investors were having a negative impact on their communities.

“Comments from respondents included:

“You are very slowly changing the society from home owners to renters. What happened to the American Dream?”

“Potential First Time Home Buyers are being left out of the possibility of buying as they cannot compete with the amount offered or cash offers.”

“The large institutional investors are ignoring their properties by not taking care of repairs or habitability issues.”

“Poor habitability standards, unfamiliarity with local renter protection laws, decreased participation in tax base, barrier to wealth accumulation by local communities.”

“Neighborhoods are being bought up by investors with no real interest in that community. This is the case most of the time in our area.”

“I believe that the overall impact will be negative, but we are not yet seeing the “bulk sale fallout” at this time. However I do foresee this being problematic in the near future.”

“I have five buyers with incomes over $100,000. Unable to find homes under $330,000 - $350,000 that aren’t in need of repair.”
Q2: Impact of smaller investors on neighborhoods is also negative.

The results were similar when respondents were asked about the impact of small investors. While nearly 70% of respondents reported that the impact of small investors was negative, this was slightly better than the response for large investors (80% found large investor impacts to be negative).

Comments from respondents included:

“IT depends on their intentions. If motivated to sell as an affordable property, then great, but for a “flip” it does the same as large investment.”

“We are seeing an increase in seniors, disabled people and vulnerable populations being pushed from their apartments by rent increases (in non-Rent Stabilization Ordinance areas) and spurious eviction grounds (RSO areas).”

“Even smaller investors are turning the properties into rentals or they are selling them at high prices, which limits the homeownership opportunities that are available.”

“What is different, nothing... The community has no benefit.”
Q3: Investors are not keeping homeowners in their homes.

Nearly half of respondents reported that investors were not keeping homeowners in their homes. Additionally, almost 25% reported that this is the case “sometimes.”

Comments from respondents included:

“Most have been evicted by investor. This impacts the rental market by raising rents more than a mortgage payment currently is. Families have to pay more for housing or become homeless or double up with other family members.”

“Investors often foreclose and evict homeowners.”
Q4: Whether investors rent to existing tenants or displace them is a mixed bag.

Respondents had different views on whether investors would continue to rent to existing tenants. Thirty-nine percent reported that investors sometimes rented to existing tenants; over one-third felt that investor landlords move to displace existing tenants; 16% were unsure; 5% felt that investors would rent to existing tenants, but on worse terms; and another 5% felt that investor landlords were willing to rent to existing tenants.

Comments from respondents included:

“Evicting seems to be the business model.”

“There is some evidence that investors are dumping current tenants to increase rents.”

“They usually want them out, often not following state laws to do so. If they do offer to rent, it is at an inflated amount.”

“If they do, they don’t seem like they act like landlords in terms of upkeep, habitability issues.”

“Displacement comes by way of eviction, but it also comes by way of rent increases that are too steep for existing tenants to manage.”
Q5: Investors have changed the demographics of local areas, especially with regard to displacing long-term residents.

Respondents note how investors are changing the demographics of neighborhoods, both in terms of racial and income diversity, and also in terms of displacement of long term residents who are community assets that get uprooted. Other respondents felt it was too early to tell how investors were affecting the demographics of neighborhoods. As subprime and predatory mortgage lending and the ensuing foreclosures disproportionately impacted neighborhoods of color and low-income neighborhoods, perhaps it is not surprising that wealth transfers and displacement are changing neighborhood demographics. *Sacramento Bee* reported that investors owned nearly 25% of Sacramento homes, a dramatic increase from pre-recession days, but that investors owned fully 55% of single-family detached homes in the south and central Oak Park neighborhoods, which had been largely neighborhoods of color.34

![Chart showing investor purchasers/landlords changed the demographics of your area](chart.png)

*Comments from respondents included:*

“Through displacement there are fewer long term residents and owners.”

“Displacement of long term residents and neighborhood gentrification often leads to change in demographics.”

“This is also impacting schools where children once attended had to uproot to another area and school. Instability for the family and neighborhoods

34 Phillip Reese, “Rental Central: Investors own nearly one in four Sacramento County homes,” *Sacramento Bee*, November 20, 2013.
Q6: Banks subject to the CRA obligations should not securitize or finance REO to Rental.

As with the subprime boom, much of the financing for REO to Rental schemes comes through securitization and the financing provided by regulated depository financial institutions that are subject to the Community Reinvestment Act (CRA). For example, JPMorgan Chase, Wells Fargo and other banks are players in the securitization of REO to Rental, which has fueled this whole industry. Banks also provide financing to REO to Rental companies.

When asked, a plurality of respondents felt that banks subject to the CRA—which requires banks to meet the credit needs of the communities where they operate, including low and moderate-income communities — should not enable REO to Rental.

Comments from respondents included:

“Keep Wall Street out of this. They are destroying the American Dream of home ownership.”

“It didn’t work with mortgages, no reason to expect it will work any better with leases.”

“They’re banks! What do you expect? They created the crash and exploited every advantage that they could take.”

“I think they should hold investors accountable to work with local nonprofit housing developers to purchase their REOs and help with acquisition/rehab projects to allow families to own and for those nonprofits that know how to manage rental to do the same. Also, nonprofits can provide housing counseling to their tenants to become buyers of the units.”

“I am not sure it is possible to bar CRA banks from securitizing REO-to-Rental instruments, but CRA banks need to make lending to owner-occupants a priority sufficient to compete with investor purchases.”
Q8: Qualified homebuyers often lose out to investors in trying to purchase homes. Three quarters of respondents reported that qualified homebuyers “always” or “almost always” lost out to cash investors in their efforts to purchase a home. Less than 2% of respondents said that qualified homebuyers “never” lose out to cash investors. In California, cash sales, while declining from a peak of 40% in August of 2011, still came in at over 25% of all home sales in February of 2015. Investor purchases by Limited Liability Companies and Limited Partnerships, while down over 10% from last year, still numbered over 1,000 for the month, according to PropertyRadar.35

![Bar graph showing responses to Q8 question]

Comments from respondents included:

“Average buyer puts in 20-30 offers before getting one accepted. Most are beat out by cash buyers.”

“This is true for people with substantial incomes because investors driving the bidding up beyond what the local market can sustain.”

“These properties are not put out to the Realtors. They are dealing privately with the lenders who are being paid for the leads.”

“I have taken calls from individuals who tell me that they have been trying to buy a house, but can’t compete with cash investors. I have also spoken to real estate agents who report that they are having difficulty in finding homes for their clients because of cash investors.”

Q9: First time homebuyers are losing out primarily because of cash offers, though other reasons are at play.

Respondents were asked why homeowners lose homeownership opportunities to investors, given a few possible reasons, and instructed to identify all explanations they felt applied. Over 60% of respondents reported that cash investors were offering more money for homes than owner occupant bidders, but a greater number of respondents, 79%, responded that sellers preferred cash offers, presumably regardless of whether a cash bid was higher or not.

Investors come to the table with cash, possibly more money, and certainly faster. Starwood Waypoint boasts that it can make an initial offer on a house in 8 minutes. “We encourage our guys to make an offer before they see the house,” said Ali Nazar, Starwood Waypoint’s chief experience officer. “I don’t want to wait for anyone else. Our competitors are also fast.”

Nearly half of respondents felt that FHA borrowers, who are disproportionately borrowers of color, were less likely to compete successfully for homes due to potential bias among sellers and their agents against the FHA program. Buttressing this view is a flyer from an investor group to homeowners, shared with CRC, which notes, “If you’re planning on selling a house that’s not in tiptop condition, there’s something you should know: It could cost you a huge amount of money, time and work to fix your house to meet FHA requirements” (bold and underline in the original flyer). Over one-quarter of respondents felt that potential owner occupants could not compete for homes because the properties were in need of too much repair and presumably would not pass a home loan inspection.

Comments from respondents included:

“Sellers via their real estate agents do not want to work with FHA borrowers. Sellers take their Q from their real estate agents who continue to misunderstand FHA financing and in particular 203K FHA financing which could be used to purchase and repair at the same time. Sellers prefer cash especially if the seller is an institutional investor and will take a lower cash bid over an FHA bid most of the time.”

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Q11. Cash and institutional investors are hurting the business of local real estate professionals.

One aspect of the REO to Rental phenomenon that has not been much discussed is the impact on local small businesses in the real estate community. Two-thirds of those responding indicated that REO to Rental “hurts my business.” Another quarter of respondents felt it had no impact, while 10% felt the impact was positive. This raises the question of how institutional and cash investors are purchasing REOs and whether they are working with local small business professionals in the area. It is likely that investor purchases occur before properties are brought to the market, at trustee sales, through distressed loan purchases, or otherwise. This lack of transparency leaves first time homebuyers in the dark, as well as potentially cutting out local real estate professionals.

“Investors paying all cash have terrorized homebuyers that can't compete with all cash offers. After they flip the property they sell it themselves which puts us Realtors out of business.” – Dolores Golden, Multicultural Real Estate Alliance for Urban Change

Comments from respondents included:

“Less inventory on the open market to sell and present homeownership opportunities back to the communities.”

“I specialize in First Time buyers. It is almost impossible to find property in Orange County that isn’t in 3rd world condition. Buyers going to Riverside and driving over 100 miles each way.”
Q12. Nonprofit housing developers are outbid by cash and institutional investors.

Similar to the situation with first time homebuyers, nonprofit affordable housing developers also find themselves outbid when competing for properties they can convert to or maintain as affordable housing for low-income residents of the community. Respondents were asked how they have been impacted by cash and institutional investors, presented with a few possible responses, and asked to identify all that apply. Most of the respondents indicated that they are outbid by investors, and over 40% indicated that “first look” programs, which have been touted as a solution to this problem, do not in fact work.

**Comments from respondents included:**

“We have looked at REO multifamily and have been unable to compete for these properties against cash buyers.”

“No affordable homes for our first time home buyers.”

“It is tough trying to find properties and make them pencil out so it makes sense when using our funds. NSP (Neighborhood Stabilization Program) funding has dried up and government doesn’t’ have funding to do this work on a scalable manner. So the nonprofit is doing all the investment and work to positively make changes.”
Q13. Fair housing complaints against institutional and other investors may be on the rise.

With Wall Street and institutional landlords quickly becoming the largest landlords in the country, concern about fair housing impacts have grown. While a plurality of respondents were not certain about fair housing complaints going up or down against these landlords, a majority of those who did have an opinion reported seeing an increase in complaints “a lot” (12%) or “some” (25%). It is possible that respondents were reacting to formal fair housing complaints or their perceptions about whether violations are likely occurring. Importantly, lack of transparency around investor landlords makes tracking violations difficult.

Comments from respondents included:

“There seems to be a direct correlation on the numbers. It’s just happening more often so it’s getting more notoriety.”

“It’s not always easy to determine who is an investor LLC or LP.”

“In order to know if any fair housing issues have been filed we would need to know what management company is being used by the investor.”
Q14. Fair housing complaints center on unlawful evictions, failure to maintain properties, and terms and conditions of tenancies.

Fair housing and related complaints against investor landlords can take many forms. Respondents cited most frequently complaints relating to invalid evictions (64%), maintenance and repairs (62%), and terms and conditions (59%). Over one-third of respondents noted complaints related to race discrimination (41%), disability (39%), and tenant selection (33%).

Comments from respondents included:

“Higher rents for those that I am aware of, not at all consistent with prevailing rents in the same area.”
Q15. Blackstone, Waypoint, Colony/Colfin, and American Residential were named most often.

Perhaps not surprisingly, the companies complained of most often by respondents are the big players in the REO to Rental and securitization markets.
Q16. Problems with Wall Street, institutional and other investor landlords negatively impacting tenants may be on the rise.

The early response is that Wall Street, institutional and other investors landlords are more problematic than most landlords. This is consistent with the findings in a recent Tenants Together report where tenants living in properties managed by Wall Street landlords reported higher rents and a myriad of tenant rights problems.
Q.17. Complaints via legal service lawyers relate to a variety of anti-tenant policies and practices.

When asked to describe the nature of tenant complaints with investor landlords, advocates identified a number of issues, including eviction (61%), not accepting section 8 vouchers (50%), habitability (47.4%), the landlord wanting to get rid of the tenants (47.4%), lease terms and conditions (45%), and fair housing complaints (45%).
Q18. Blackstone, Waypoint, Colony/Colfin, AmericanHomes4Rent and small investors were complained of most often by legal service lawyers and tenant advocates.

Perhaps not surprisingly, the companies most complained of by legal service and tenant advocate respondents are the big players in the REO to Rental and securitization market.

Q20. Most respondents see foreclosed homes being purchased by investor groups, with Blackstone, Waypoint, Colony/Colfin and small investors being named most often, but the homes are not rented back to the former homeowner.
Q21. Respondents had several suggestions for what should be done.

Approximately half of the respondents provided suggestions for how to deal with the problem of investors buying up properties, elbowing out first time homebuyers, displacing and ill-treating tenants, and changing neighborhoods. Responses are grouped into five main buckets:

1) Tenant protections:
   • Enact just cause evictions and rent control ordinances at the local level.
   • Enforce the state’s Homeowner Bill Of Rights (HBOR), which requires, in part, that new landlords honor existing leases and provide 90 days notice to most tenants living in a foreclosed home without a lease.
   • Work with nonprofits to provide housing opportunity to those who need it.

2) Fair Housing:
   • Further research is needed to understand to what extent fair housing laws are being violated.
   • The Department of Housing and Urban Development and the state Department of Fair Employment and Housing should assist the public and researchers in accessing complaint data.

3) Securitization:
   • Securitization should not be a permissible vehicle for financing REO to Rental and similar schemes.
   • In the alternative, restrictions should be placed on companies that seek to securitize rental payment streams by limiting the number of REO properties one company can purchase, limiting the rents that can be charged by such companies, and ensuring that all residents have equal access to available rental housing opportunities.

4) Property sales:
   • Develop first look programs for nonprofits and first time homebuyers that work, and are monitored and enforced, with education of listing agents.
   • Establish set asides for nonprofit purchasers.
   • Build nonprofits into any investor exit strategies.

5) New theories:
   • Local jurisdiction use of eminent domain power to take control of underwater mortgages for fair value, and to control foreclosure prevention efforts available to affected homeowners.
   • Use TARP and Hardest Hit Funds to purchase REOs and distressed loans on behalf of governments and nonprofits.
   • Limit the number of properties one investor can purchase in one city before triggering a requirement to notify the city.
   • Eliminate tax benefits for investors who are purchasing REO properties for the purpose of renting them out at a profit.
   • Impose Community Reinvestment Act-like obligations on investors so they are encouraged to address community needs and mitigate their impact on local communities.
Strong Advocacy is Needed, and is Happening. Recommendations for Change.

Strong advocacy offers hope for communities. In light of the threat to community stabilization posed by investor control of local housing stock, community groups are fighting back. Causa Justa: Just Cause has taken action against gentrification in the San Francisco Bay Area through policies, direct action and pushing the government to prioritize affordable housing and tenants’ rights. Right to the City, Occupy Our Homes Atlanta, and Strategic Alliance for a Just Economy (SAJE) have engaged impacted residents and exposed problems with Wall Street landlords. Tenants Together has interviewed tenants of the new Wall Street landlords, proposed stronger legal protections for renters, and teamed with the Anti-Eviction Mapping Project to show where abusive Ellis Act evictions are occurring. The Center for American Progress (CAP) has conducted significant research and analysis on multiple facets of the REO to Rental model. It has highlighted potential problems and effects on residents and communities, and proposed best practices for Wall Street landlords.

Community groups are also representing these causes to the federal government. For example, the National Fair Housing Alliance and its affiliates have filed HUD complaints against banks, Fannie Mae and other vendors for failing to maintain and market REOs in all neighborhoods in a similar fashion. They have also noted that REO properties may be scooped up by investors. Additionally, the Alliance of Californians for Community Empowerment (ACCE), National Community Reinvestment Coalition (NCRC), the Center for American Progress and others have begun to successfully advocate with the Federal Housing Administration (FHA) and the Federal Housing and Finance Agency (FHFA) to make the government sale of distressed loan pools more accessible to mission-driven nonprofits that are more likely to keep homeowners in their homes and to ensure that REO properties are transformed into community assets.

These and other advocacy efforts are critical to ensuring that market forces do not overwhelm local neighborhoods and further harm families.
Seven Recommendations for Change

In light of CRC member perspectives, experiences and suggestions, and in the context of current challenges and opportunities, CRC makes the following seven recommendations:

1) Keep homeowners in their homes:
   - Require Fannie Mae and Freddie Mac to offer principal reduction loan modifications.
   - Enforce new CFPB servicing rules.
   - Ensure loss mitigation is exhausted before loans are put into the DASP or other government programs that sell pools of distressed loans.
   - Prohibit upstream purchases of distressed loans by affiliated companies like Ocwen/Altisource, Blackstone/Bayview and Caliber/Loan Star that operate or invest in REO to Rental, as they may have a conflict, or the appearance of a conflict, between helping distressed homeowners stay in their homes, and foreclosing on them in order to convert the home to a rental.

2) Conduct fair housing investigations and enforcement:
   - HUD, DOJ, and CFPB should investigate whether certain REO to Rental-related practices and policies, including bulk sales, distressed loan sales, REO property maintenance, and institutional landlord property management and tenant selection have a discriminatory impact on homeowners, tenants and communities, in violation of fair housing and fair lending laws.
   - DOJ should investigate whether bank and investor shadow inventory policies and practices represent illegal collusion or anti-competitive activity.

3) Strengthen tenant and community protections:
   - Support local vacant property registration ordinances and code enforcement to fight blight and ensure habitability.
   - Extend just cause and rent control protections to more cities.
   - Expand outreach and access for section 8 tenants.
   - Amend the Costa Hawkins Rental Housing Act so that strong tenant protections can be extended to single-family homes and condominiums.
   - Amend the Ellis Act to prevent speculators and other investors from abusing it as a means to displace tenants in favor of higher end homeowners.

4) Promote homeownership:
   - CFPB, HUD, and banking regulators should ensure banks are maintaining properties to an FHA financeable standard so FHA and other borrowers can compete for home purchases.
   - Protect FHA borrowers from discrimination by sellers, agents and others.
   - FHA, FHFA, and Banks should prioritize homeowners in REO sales.
   - Lower costs and expand outreach and access to credit for qualified LMI borrowers, while preserving ability to repay and other protections for home loan borrowers.
   - Require institutional and other investor landlords to offer tenants the option to purchase their home if the investor wishes to sell or exit the market.
5) Use the CRA as tool to better support affordable housing and deter banks from facilitating REO to Rental and other harmful practices:
   • Bank regulators should give CRA downgrades to banks for securitizing and financing REO to Rental.
   • Bank regulators should give CRA downgrades for banks funding loans that are predicated on, or that foreseeably result in, displacement.
   • Banks regulators should give CRA downgrades for banks improperly foreclosing on homeowners and denying loan modifications.

6) Bulk sales from GSEs, HUD, banks should prefer sales to CDFIs:
   • FHA, the GSEs and banks should follow the recommendations of advocates and prioritize REO sales to nonprofit and mission driven entities over investors.
   • There is a lot of strong advocacy designed to prefer nonprofit CDFIs in the sale of distressed loan pools. A joint letter signed by Mayor Ras Baraka of Newark, NJ and Mayor Tom Butt of Richmond, CA is being circulated by ACCE and allies, calling on major banks, Fannie Mae, Freddie Mac, and HUD to prioritize selling troubled mortgages to entities that have an interest in helping families and stabilizing neighborhoods.  

7) Tax REO to Rental securitizations and Real Estate Investment Trusts (REITs) owned by for-profit investors in order to provide support for affordable housing, and provide more transparency:
   • Congress and state government should explore the imposition of a tax on REO to Rental Securitizations to be dedicated to financing the permanently affordable rental housing that is truly needed to mitigate the harm caused to communities as a result of the activities of Wall Street investors and others.
   • Local governments should explore enhanced taxation on Real Estate Investment Trusts (REITs) not focused on affordable housing, which have sought tax advantages for the purchase of real estate, but which may have created a greater need for permanently affordable housing in local communities. In California, the state has delegated the ability to levy “controlling interest transfer” taxes on REITs to the municipalities. These controlling interest transfer taxes are charged when REITs transfer property. While in most jurisdictions, municipalities charge relatively low taxes, about $1.10 per $1000 of value, several jurisdictions have imposed higher taxes. Specifically, Oakland, the city and county of San Francisco, and Santa Clara County have increased taxation of REITs.  
   • Deny Federal Home Loan Bank membership and other benefits to REITs pursuing REO to Rental and other investments that may exacerbate local affordable housing needs.
   • The SEC should provide for greater disclosure of REO to Rental securitized bond deals, including what the impacts on tenants and communities will be if rental streams are insufficient to meet investor expectations, and what are likely outcomes at the end of

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the (5-year) transaction term. The SEC, CFPB and state governments should require more transparency of LLC ownership and affiliations to facilitate better monitoring and analysis of investor impacts on local communities.
Methodology

CRC began hearing questions, complaints and concerns about investor purchases of REOs in 2013. We developed this survey of CRC’s membership to better understand how community groups were experiencing this dynamic. Surveys were sent out to CRC members in the latter half of 2014. Eighty individuals responded.

Acknowledgements

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The California Reinvestment Coalition (CRC) advocates for fair and equal access to financial institutions for California’s low-income communities and communities of color. CRC is a coalition of three hundred nonprofit organizations and public agencies across California that work together for community economic vitality.

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APPENDIX A

Community Letter to Federal Regulators
signed by 80 organizations
March 3, 2014

Comptroller Thomas Curry
Office of the Comptroller of the Currency
Administrator of National Banks
Washington, DC 20219

Chair Janet Yellen
Federal Reserve Board of Governors
20th Street and Constitution Avenue N.W.
Washington, D.C. 20551

Director Richard Cordray
Consumer Financial Protection Bureau
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Washington, DC 20552

Director Mel Watt
Federal Housing Finance Agency
400 7th Street, S.W.
Washington, DC 20024

Chair Mary Jo White
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Secretary Shaun Donovan
Department of Housing and Urban Development
451 7th Street S.W.
Washington, DC 20410

RE: Need for immediate federal intervention to mitigate the harmful impacts on local communities of investor purchases of REOs and distressed loans, and to stave off the next financial crisis

Dear Comptroller Curry, Chair Yellen, Director Cordray, Director Watt, Chair White, and Secretary Donovan:

This letter is sent on behalf of the undersigned organizations concerning a serious and still growing problem – the creation of another housing bubble, the displacement of tenant and homeowner households, and the destabilization of neighborhoods as a result of failed and negligent federal policies. Such policies and inaction have enabled Wall Street and other cash investors to outbid first time homebuyers, displace tenants, and alter the fabric of local communities.
We are concerned that families and communities will continue to suffer. In Riverside County, one-third of renters are forced to pay more than half of their income in rent, and there is an increase in poor upkeep and a lack of responsiveness by investor landlords to their tenants. In Los Angeles, housing prices are rising but homeownership is declining as first-time homebuyers are priced out of the market. In East Palo Alto, one company controls approximately half of the rental housing stock. And in Oakland, neighborhoods are losing long term residents who are displaced by foreclosures and tenant evictions amidst the frenzy as investors seek to gobble up properties.

At the same time, we are poised to experience another crisis if federal regulators fail to recognize and take corrective action to address red flags that are all too familiar: inflated housing prices, the explosion of securitized housing payments, undue challenges facing homeowners unable to secure the lowest priced loan product for which they qualify, and actions of GSEs that are more focused on profit motive than serving their affordable housing mission.

What follows is a short description of the problems we are seeing, followed by a set of recommendations for policy changes and other assistance to begin to address this crisis.

**Making Neighborhoods Worse- Preference for Cash Investors and Bulk Sales of REO and Distressed Mortgages**

Banks and other home sellers have demonstrated a preference for cash investors that is locking families out of homeownership. Nationally, cash deals made up 32% to 42.1% of home sales in December 2013. The failure of banks and investor owners of REOs to properly maintain and repair housing units means that many properties for sale in low income communities and communities of color are too distressed to pass FHA or other property inspections. Bank and investor neglect make these properties unavailable to FHA and other loan borrowers, unfairly closing the market to everybody except cash investors. This has a clear disproportionate impact on protected classes that rely on FHA and other loan products to attain homeownership.

Meanwhile, Fannie Mae and Freddie Mac have engaged in bulk sales of their distressed assets, which can harm neighborhoods without adequate protections in place. The Federal Housing Finance Agency implemented a pilot project in 2012 to address REO disposition, and, in its first transaction, approximately 2500 single-family Fannie Mae REO properties were offered to investors for sale. Many of the properties had tenants. We were, and continue to be, concerned about bidder qualifications and subsequent maintenance by these investor landlords. Furthermore, there has been no transparency regarding the outcome of these deals. And while we applaud the newly introduced Fannie Incentives program for REO purchase by potential owner occupants, we are concerned it will be no more effective than existing “first look” policies which have failed to significantly expand homeownership opportunities for first time homebuyers and others who wish to live in the homes they purchase.

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2 See Laura Gottesdiener, “The Empire Strikes Back: How Wall Street Has Turned Housing Into a Dangerous Get-Rich Quick Scheme – Again,” citing a Los Angeles real estate broker noting that from October 2012 to October 2013, home prices rose 20% but the homeownership rate dropped, and that “all of his buyers – every last one of them – were besuited businessmen. And weirder yet, they were all paying in cash.”
Though the GSEs as conservatees have an obligation to exercise fiscal due diligence, they also have a mission to serve low and moderate income communities, with a particular eye to the needs of vulnerable communities of color. Mass sell-off of properties to investors does not meet that mission or fair housing obligation.

FHA is also engaging in sell-offs under its Distressed Asset Stabilization Program (DASP). We are concerned that homeowners have been dropped out of the protections of FHA loss mitigation. Attorneys at HERA have served clients who were not given proper access to required FHA loss mitigation options before being moved into DASP. By not making sure servicers have engaged in proper loss mitigation, FHA has left its borrowers open to abuses that result in displacement. As currently designed, FHA bulk sales may, in fact, be more likely to lead to foreclosure, not household or neighborhood stabilization. Though foreclosure sale of these properties is delayed by agreement with HUD for six months following transfer through DASP, specific loss mitigation protocols are not specified by HUD for the subsequent servicer. Perhaps in response to congressional pressure, FHA has prioritized removal of distressed assets from its portfolio rather than taking the time to make sure servicers are respecting loss mitigation protocols.

Continuing REO bulk sales under current economic conditions ultimately amounts to market interventions that make investor predation a federally-sponsored event. This repeat offense of looting the most vulnerable communities of our nation dangerously functions to widen race and class inequalities in future years, calling into question the federal commitment to furthering fair housing. A rationale for bulk sales was to stabilize the market. But now, with prices rising and institutional and smaller investors pouncing on distressed properties and loans, the market no longer needs stabilization. It is our neighborhoods that need stabilization.

**The New Housing Bubble- Artificial Inflation of Home Prices**

Mortgage servicers and investors have withheld REO inventory from the market to ensure demand exceeds supply and to artificially drive up prices for prospective homebuyers. The problems with this form of market manipulation are several. Homebuyers who want to live in the property as their primary residence are under water as soon as they sign on the dotted line to buy the home, as the valuation of the home is based on an artificially inflated valuation of the property. This is akin to the pre-crash inflated appraisal problem, with the same effect of putting homeowners into homes that were immediately worth less than what they owed, trapping them until their home value actually rises. Additionally, the withholding of REO inventory has rapidly driven up rental prices to a level that is unaffordable to low and moderate income households and has increased over-crowding. Foreclosed-on homeowners have become renters, increasing demand on the rental side, while renters have been artificially prevented from freeing up rental stock by becoming homeowners due to the withholding of REO stock. In other words, the crush of former homeowners entering the rental market, without renters having the chance to successfully enter the homeownership market, exacerbates the demand for a limited supply of housing for renters. The Bay Area has experienced a supposed rise in equity that is remarkable, to say the least. The artificial increase in rental prices has also come as a result of the preference of servicers/investors for cash and bulk buyers, and new forms of Wall Street financing that facilitate this model, discussed further below.

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4 Though inventory is decreasing, the problem remains, and it is not spread evenly across the U.S. See CoreLogic Reports US Foreclosure Inventory Down 34 Percent Nationally from a year ago, (Jan. 9, 2014), CoreLogic at corelogic.com. We also note that there is a need for further analysis of the issues, as CoreLogic’s report acknowledges that its calculations are an estimate.
5 Bay Area leads in underwater mortgage rebounds, (Aug. 30., 2013), SFGate, at sfgate.com.
Wall-Street Backed Investment in Rentals and Rent Securitization: Impacts on Tenants and Communities

A new kind of landlord is buying properties in bulk—hedge funds, private equity firms and other companies that have not been in the rental business for very long, do not have an interest in abiding by their legal duties as landlords, and do not calculate any incentive to being good landlords. These investor groups have a focus on turning a dollar, but have no connection to the community in which they are investing.\(^6\) The continued transfer of capital to investors via REO bulk sales now facilitates the creation of a new rental securitization market that benefits the very industry that caused the subprime loan crisis. And the market is growing to an estimated trillion dollars.\(^7\) Though Fitch has indicated that it will review the quality of management of assets in real estate secured pools as part of its ratings assessment, it is not clear what type of assessment it will undertake, what effect it will have on management of properties, or whether it will be more accurate than the AAA ratings given to subprime securities just before the financial collapse.\(^8\) We expect that it will not include an assessment of the type of market control over rental prices that a very large scale player can exercise when it or a handful of investors own a sufficient portion of the rental market in a given area.

Examples of problems that have arisen already that are of concern to us include reports of hedge funds refusing to accept Section 8 vouchers for renters,\(^9\) the ability of hedge funds to manage the collection of rental payments correctly,\(^10\) and raising rents then moving to quickly evict.\(^11\)

The significant size of the market makes careful government oversight absolutely essential to the safety and stability of communities. “Today more than 13 million households are renting single-family homes and single family rentals outnumber apartments.”\(^12\) Indeed, the REO-to-rental product could grow to a $15 to $20 billion market, according to Moody’s Investors Service.\(^13\) This bold new securitization of housing payments sounds eerily like the securitization of subprime loans which led to the financial crisis. The Federal Reserve Board has raised  

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\(^7\) Single-family rental securitization market boasts near trillion-dollar potential, (Nov. 2013), HousingWire at housingwire.com.

\(^8\) We note that while Fitch did not give the recent Blackstone deal an AAA rating, Moody’s, Kroll and Morningstar did so, even though the industry does not have a track record. RPT-Fitch: Too Soon for ‘AAA” Rating on Single-Family Rental Securitizations, (Oct., 2013), Reuters at http://www.reuters.com/article/2013/10/29/fitch-too-soon-for-aaa-on-single-family-
idUSFit67461420131029

\(^9\) Wall Street’s Rental Bet Brings Quandary Housing Poor http://www.bloomberg.com/news/2013-08-29/wall-street-s-rental-
bet-brings-quandary-housing-poor.html

\(^10\) http://www.motherjones.com/politics/2013/11/wall-street-buying-foreclosed-homes


questions about this new process. Republican Senator Johanns during the Janet Yellen confirmation hearing also raised questions. Congressman Mark Takano recently wrote the House Financial Services Committee, calling for hearings and raising concerns about the securitization of rents and the harmful impacts it is having on communities in the Inland Empire. We join Representative Takano in calling for hearings to examine the dangers and impacts of securitization of rental income.

And yet the problems are not confined only to the largest investor groups. Tenants Together reports receiving hundreds of complaints from California renters regarding problematic investors of various sizes. Investor landlords act without regard to tenant protections found in the federal Protecting Tenants in Foreclosure Act, our state Homeowner Bill of Rights, and local rent control and just cause for eviction ordinances. There is little to no oversight of investor landlords, and little to no enforcement of federal, state and local laws designed to protect renters from the widespread violations which exist today.

**Tightened Lending: Not Making Loans Available to Qualified Homebuyers**

Homeowners with excellent credit scores are not getting access to properties to buy. Not only are they frozen out of purchase because of the withholding of REOs, but they are finding lenders unwilling to close on loans they have been approved for. This phenomenon is not new, or a response to new qualified mortgage rules, but appears to represent an on-going reluctance of industry as a whole to make reasonably priced mortgage loans to qualified households. But the new mortgage rules do appear to be providing the industry another excuse for its failure to make credit available to qualified borrowers in low income communities and communities of color.

A further concern is that borrowers who qualify for conventional loans are being steered into costlier FHA loans. While FHA lending is an important source of credit for many borrowers, it should not be a vehicle to charge borrowers more than is appropriate based on their credit profiles. This is not a theoretical concern; one of the nation’s largest banks, quietly mailed refund checks to customers for improperly steering up to 10,000 of its customers into FHA loans when they may have qualified for lower cost conventional loans. Customers had to release the Bank from liability in order to cash these checks. Such steering of conventional borrowers into FHA no doubt has a disproportionate impact on borrowers of color who are more likely to be represented among FHA borrowers.

Conversely, there is still a bias against FHA loan products. Home sellers and their real estate professionals should not be permitted to advertise “no FHA” or otherwise fail to consider purchase offers where the borrower is using an FHA loan product.

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Conclusion

We respectfully request that your agencies respond immediately and issue any necessary guidance or rules and enforce existing fair housing and other laws so that consumers are better protected in this new landscape as communities struggle to revive themselves from the pain of the foreclosure crisis.

Specifically, we urge that you:

Keep families in their homes.
- FHA and FHFA must ensure that FHA and GSE loss mitigation and loan modification rules are followed.
- FHFA must develop more flexible policies to ensure that the GSEs participate fully in all state Hardest Hit Fund program, including by overturning policies that attempt to require “arm’s length transactions,” and instead to allow states to favor nonprofit CDFIs and other programs that seek to keep distressed homeowners in their homes through use of principal reduction modifications or resale to underwater homeowners at current market value.
- CFPB, FHFA and bank regulators should scrutinize the servicing practices of companies that may have an incentive to improperly foreclosure on borrowers in order to funnel properties to affiliated REO to Rental businesses.

End bulk sales lacking adequate safeguards.
- Bulk sales of FHA loans should cease unless loan sales clearly carry FHA loss mitigation requirements and give preference to non-profits that have written commitments to keep existing homeowners and tenants in place.
- FHA should investigate and provide public data on the impact of the bulk sale program on neighborhoods where bulk sale properties are located. This analysis should consider potential negative fair housing effects of bulk sales programs (e.g. resegregation of communities, locking protected classes out of the homeownership market, etc.).
- HUD and FHFA should release data to the public on the outcomes of bulk sales programs, the purchasers, the deal terms, and neighborhood effects after these sales.
- Bank regulators should likewise prevent banks from engaging in bulk sales of loan products and REO properties without regard to neighborhood impacts. Banks should be incentivized to sell any distressed loan pools and REO properties to nonprofit groups that are mission driven to preserve homeownership and promote community stability.

Promote homeownership.
- FHFA must develop policies for Fannie and Freddie REO properties to prioritize sales to owner occupants or nonprofit organizations.
- HUD should update the FHA 203K program so that the product can be a viable option that allows borrowers to bid on the large number of properties that require substantial repair.
- Bank regulators should ensure that bank REO policies that may favor sales to cash investors do not have a disparate impact on protected classes, and instead should favor REO sales to owner occupants.

Protect tenant rights and promote family stability.
- FHFA, Fannie and Freddie must ensure that the anti-eviction and habitability rights of tenants living in GSE REO properties are respected by all GSE servicers and agents.
- FHFA, Fannie and Freddie should offer 2-year leases to all tenants living in GSE properties that become REOs.
• CFPB must fill the regulatory gap that exists and enforce the PTFA as to all bank and investor landlords, and all regulators must ensure the entities they regulate follow federal, state and local tenant protections to slow the tide of foreclosure-related unlawful tenant evictions. Regulators should require regulated entities to document what happened to the occupants of the properties after foreclosure.

• All regulators must consider how to protect tenants from the same profit making squeeze that lead to unethical and illegal treatment by so many different actors in the mortgage market, from brokers up through executive staff of banks and investment houses. To that end, securitization of income stream should be permitted only if there is full transparency and there are reasonable restrictions on rent increases, so that renters are not displaced by investors who are focused on profit. We suggest that a 1% increase in rent per year (if permitted by local rent control law), with a cap at 5% in any 10 year time period be the maximum permitted. Many of the properties acquired by investors for rental are in low and moderate income communities and communities of color, so unreasonable rent hikes will have a disparate impact on these communities.

**Honor fair housing principles.**

• DOJ and HUD must investigate the disparate impact on neighborhoods of various practices, including:
  
  o Whether protected classes of borrowers and neighborhoods are receiving equal access to loss mitigation and loan modification relief (borrowers of color, widows and orphans, disabled borrowers). A recent GAO report has raised the question of whether Limited English Proficient homeowners have received the same level of service by servicers under the HAMP program.
  
  o The failure to maintain and market properties so that properties for sale will pass property inspections and allow borrowers to compete with cash investors.
  
  o Industry players and private sellers discriminating against FHA borrowers by failing to accept FHA offers, which has a clear disparate impact on protected classes.
  
  o The manipulation of shadow inventory by banks and others that artificially inflates housing prices.
  
  o When investors in properties have achieved the scale of being major players in the rental market or have achieved such a scale in a given community that there is reason to impose more oversight on their activity.

**Promote transparency.**

• SEC and other regulators must ensure there is transparency and appropriate ratings of rental income securitizations to ensure that unsuspecting investors do not unwittingly finance the next financial and housing crisis.

Time is of the essence before we witness further, unnecessary displacement of families and destabilization of communities. After the last crisis, regulators were asked what they had done to prevent the abuses that led to widespread foreclosures, evictions, and community upheaval. The answers provided, and the action taken, were not adequate. We are hopeful that we will not repeat the mistakes of the past.

Should you have any questions about this letter, or wish to discuss these issues further, please contact Maeve Elise Brown of HERA at (510) 271-8443 ext. 307, or Kevin Stein of CRC at (415) 864-3980.
Thank you very much for your attention to these issues and concerns. We have no time to waste in ensuring that neighborhoods are not further destabilized.

Very Truly Yours,

A Community of Friends  
Able Works  
Action for the Common Good  
Advocates for Neighbors, Inc.  
Affordable Housing Services, Inc.  
Alliance of Californians for Community Empowerment (ACCE)  
Asian Inc.  
Asian Pacific Policy & Planning Council (A3PCON)  
Associated Realtist Property Brokers, Inc., a NAREB local chapter in Oakland, CA  
Bet Tzedek Legal Services  
California Capital Financial Development Corporation  
California Coalition for Rural Housing  
California Reinvestment Coalition  
California Resources and Training (CARAT)  
Causa Justa: Just Cause  
Center for Popular Democracy  
CHISPA  
City Heights Community Development Corporation  
Civic Center Barrio Housing Corporation  
Community Action Human Resources Agency (Eloy, Arizona)  
Community Housing Council of Fresno  
Community Housing Development Corporation  
Community HousingWorks  
Consumer Action  
Consumer Credit Counseling Services of Orange County  
Consumer Credit Counseling Services of San Francisco  
Courage Campaign  
East Bay Housing Organizations  
East Los Angeles Community Corporation  
Fair Housing Law Project, Law Foundation of Silicon Valley  
Fair Housing Napa Valley  
Fair Housing of Marin  
Fair Housing Council of San Diego  
Fair Housing Council of the San Fernando Valley  
Greenlining Institute  
Hacienda CDC (Portland, Oregon)  
Hello Housing  
Home Defenders League  
HomeownershipSF  
Housing California  
Housing and Economic Rights Advocates  
Housing Opportunities of Northern DE, Inc.  
Inland Fair Housing and Mediation Board  
ISAIAH  
Massachusetts Communities Action Network  
Multicultural Real Estate Alliance for Urban Change
National Asian American Coalition
National Community Reinvestment Coalition
National Consumer Law Center (on behalf of its low-income clients)
National Housing Law Project
National People's Action
Neighborhood Housing Services of Greater Cleveland (Ohio)
Neighborhood Housing Services of the Inland Empire
Neighborhood Housing Services of Silicon Valley
NeighborWorks Sacramento Region
New Economy Project
NID-HCA
Northbay Family Homes
Northern Circle Indian Housing Authority
Novadebt
NPIC, Inc.
Orange County Community Housing Corporation
People’s Self Help Housing
PICO National Network
Project LIFT (Houston, Texas)
Public Counsel
Renaissance Entrepreneurship Center
Residential Resources, Inc. (Nashville, Tennessee)
Right to the City Alliance
Rural Communities Assistance Corporation
Sacramento Foreclosure Action Team
Self-Help Enterprises
Shalom Center for T.R.E.E. of Life
Suburban Alternatives Land Trust
Tenants Together
Thai CDC
Unity Council
Vermont Slauson Economic Development Corporation
Ward Economic Development Corporation
Western Center on Law and Poverty
APPENDIX B:

DASP Consensus Recommendations suggesting a baseline of protections for the FHA Distressed Asset Stabilization Program (DASP)
February 4, 2015

FHA Commissioner Biniam Gebre
U.S. Department of Housing and Urban Development
451 Seventh Street, SW
Washington, DC 20410

Dear Commissioner Gebre:

We know that you have received many recommendations, from various organizations, regarding ways to improve the Distressed Asset Stabilization Program (DASP). In order to assist your office as you work on improvements, and to streamline our communication with FHA, our organizations have arrived at a set of core reforms that we all agree are key in order for DASP to maximize its potential. These consensus reforms are outlined in the attached one page document.

As you will recognize, many of the organizations below are coalitions, networks or associations, comprised of numerous local community groups, housing development groups, and other non-profits across the country. We work in and/or represent many communities where these loans are concentrated and the borrowers whose loans go into the pools.

We welcome the opportunity to discuss these issues further, and in more detail, with you and/or your staff.

Sincerely,

Right to the City (RTTC)
Center for Popular Democracy (CPD)
Americans for Financial Reform (AFR)
Center for American Progress (CAP)
National Consumer Law Center (NCLC) (on behalf of its low-income clients)
National Community Reinvestment Coalition (NCRC)
National Council of La Raza (NCLR)
National Association for Latino Community Asset Builders (NALCAB)
National Fair Housing Alliance (NFHA)
Leadership Conference on Civil and Human Rights
California Reinvestment Coalition (CRC)
Greenlining Institute
Improving the Distressed Asset Stabilization Program

**PROTECT THE RIGHTS OF HOMEOWNERS THROUGHOUT THE PROCESS**

- Prior to placing a loan in a sale pool and paying the claim, require servicers to document and certify compliance with each step of FHA’s sequential loss mitigation review, including documentation of the grounds for denial of foreclosure alternatives.
- Prior to the inclusion of a loan in a DASP sale, require servicers to provide homeowners with notice that accurately informs them about the sale process, the servicer obligations before and after sales, and the homeowner’s rights under these transactions.
- Develop an effective HUD review system to handle homeowner complaints about post-sale conduct of servicers and owners.

**PRIORITIZE NONPROFIT PARTICIPATION, MORTGAGE MODIFICATIONS & AFFORDABILITY**

- Require all buyers and their servicers to participate in MHA, including HAMP-PRA. All loans must go through MHA waterfall at least once after they are sold through DASP, and this must be documented.
- Ensure greater percentage of purchases by non-profits and buyers committed to home retention and affordability. Mechanisms to ensure this greater participation include, but are not limited to: 1) either a “first look” or “last look” for qualified buyers, 2) weighting of enhanced outcomes in the auction process, 3) expansion of NSO pools to at least 50% of total FHA auctions, and 4) direct sales of NSO loans for competitive bids limited to non-profit bidders.
- Facilitate participation by non-profits and other mission driven entities by creating some smaller pools.

**EXPAND AND IMPROVE NEIGHBORHOOD STABILIZATION OUTCOME AUCTIONS**

- Significantly scale up the number of mortgages being sold through NSO pools.
- Require that some percentage of any REO be sold to an owner occupant, donated to a non-profit or local government or converted into an affordable rental unit.

**STRENGTHEN MONITORING & REPORTING TO ENSURE EFFECTIVE OVERSIGHT & ENFORCEMENT**

- Require detailed quarterly reporting, including:
  - Terms of loan modifications; demographic and geographic information about homeowners.
  - Disposition results including whether home is held as a long-term rental and, if so, monthly rent charged; and whether the home was sold to an owner-occupant, non-profit or investor.
- Require reporting requirements to travel with the loan if it is re-sold and include traceability back to original buyer.
- Make aggregate information available to the public in a timely way.
- Bar from future auctions buyers who have purchased FHA mortgages in the past but have failed to meet required objectives.