

OPINION

Who maintains foreclosures?

Despite owning the homes, big banks are battling to say, ‘not me!’

By [Paul McMorrow](#) | JANUARY 03, 2012



PAT GREENHOUSE/GLOBE STAFF

Last summer, the city reportedly fined Wells Fargo bank for code violations at this foreclosed home in Dorchester.

FANNIE MAE and Freddie Mac have taken too much criticism for inflating the housing bubble, something they did not do. While the nationalized mortgage giants have been browbeaten over crimes they didn't commit, they've somehow managed to skate away from the real scandal — the way the companies have acted in the aftermath of the housing crash.

The two companies have resisted efforts to staunch the flow of foreclosures and turn the country's hobbled housing market around. Now, they're in court, waging an absurd fight

against the notion that they should have to maintain the homes they seize.

The case, which pits Fannie and Freddie against the city of Chicago, reeks of political gamesmanship. Even so, the lawsuit threatens to upend efforts to stabilize foreclosure-ravaged neighborhoods across the country. Boston was an early pioneer of the type of municipal foreclosure intervention that's now on trial in Chicago. Now its efforts are being endangered by a Beltway spitting match.

In 2008, Boston City Hall was inundated with calls from residents living near abandoned, dilapidated properties. "At meeting after meeting, we heard about homes that appeared to be vacant, kids were going in and out, people were stealing copper, nobody was cutting the grass or shoveling the snow or taking out trash," recalls Boston City Councilor Rob Consalvo. "Who wants to live next to that?"

Foreclosures were being abandoned twice — once by the families who were evicted from their homes, and then by the banks and mortgage companies that had seized the properties. Lenders were taking homes at a rapid clip, but Boston officials often had trouble determining who was responsible for maintaining vacant properties. So Consalvo authored a municipal ordinance that requires mortgage holders to register foreclosures and vacant properties with Boston's code enforcement department, and to inspect and maintain those properties monthly.

Consalvo's foreclosure monitoring ordinance was the first of its kind in Massachusetts. It has served as a model for other cities' attempts to combat foreclosure-driven blight. One of the cities following Boston's example was Chicago. Chicago's foreclosure monitoring program took effect in late November; by December, the city was defending the act in federal court.

The Federal Housing Finance Agency is suing to nullify Chicago's foreclosure monitoring regime. The FHFA is the federal agency that controls Fannie and Freddie. It has tremendous clout in housing policy because Fannie and Freddie own half the country's mortgages. The agency also doesn't play well with the political power structure that created it. The White House and congressional Democrats have been leaning hard on the FHFA to support the housing market by refinancing more troubled borrowers, cutting principal balances on upside-down mortgages, and expediting short sale approvals. The FHFA has refused, saying its mission is to protect taxpayers' \$152 billion takeover of Fannie and Freddie by focusing on the mortgage companies' profitability. Congress has retaliated by taking a keen interest in compensation at the FHFA, and the White House

has publicly threatened to replace the agency's leadership.

The FHFA's Chicago lawsuit looks like the latest round in this spitting match. Fannie and Freddie have fully cooperated with Boston's foreclosure monitoring program for years. Now, however, they're claiming that a nearly identical program is illegal. It just so happens that the foreclosure program the FHFA is strenuously objecting to was championed by Chicago mayor Rahm Emanuel, a close political ally of the folks currently trying to topple the FHFA's leadership.

Petty power feuds are nothing new in Washington. The FHFA is playing a dangerous game in federal court, though. In lashing out against Chicago's foreclosure registration ordinance, it's laying the legal framework for overturning scores of similar acts, including Boston's.

The FHFA isn't just arguing that Chicago's foreclosure ordinance is too tough for its liking. It's saying that Fannie and Freddie can't be regulated or fined by any municipal government. The FHFA is saying that Fannie and Freddie may let their foreclosed properties become overgrown, squatted in, and strewn with trash, and municipal officials have no power to enforce building and sanitary codes. It's claiming that Fannie and Freddie seize homes, those properties can no longer be held to the same standards that every other property owner obeys. This is a recipe for widespread blight and neighborhood destruction. It's a scandal that's actually worthy of Fannie and Freddie's villainous reputation.