



## Barriers to Language Access in the Housing Market: Stories from the Field

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### *Introduction*

As the demographics of the U.S. population change, so do the faces of homeownership. Since the housing crisis, federal regulators have taken significant strides to provide enhanced protections to mortgage borrowers to prevent harms that led to the crisis and to ensure that borrowers are offered home retention options when they face hardship. Despite this progress, policymakers have largely failed to directly address language access issues for mortgage borrowers with limited English proficiency.<sup>1</sup> Limited English proficient (“LEP”) refers to individuals who do not speak English as their primary language and have a limited ability to read, speak, write, or understand English. This definition also includes individuals with sensory impairments, who are deaf or hard of hearing, or are blind or have visual impairments. The mortgage market is complex and daunting enough for the average consumer and the challenge is compounded for LEP borrowers. Often LEP borrowers enter into mortgage loans without understanding the terms of the contract, due to the lender’s failure to provide communications in a language they can understand. Many are also left abandoned when seeking loss mitigation in attempts to save their homes due to the lack of language assistance services.

The Americans for Financial Reform coalition<sup>2</sup> has compiled examples from consumer advocates nationwide detailing their LEP clients’ experiences in the mortgage market.<sup>3</sup> The examples collected demonstrate how LEP consumers face additional hurdles when navigating the mortgage market. Because these incidents were reported through advocates for LEP borrowers, we believe that the many LEP homeowners without professional assistance face even greater harm from the language barriers these stories identify. Although some servicers have taken steps to provide oral and written translation services, much more must be done. Language barriers result in real harm to consumers, who are targeted for predatory loans and are left helpless when seeking loss mitigation. Improvements in language services are necessary to ensure that LEP consumers have equal access to mortgage loan products and services.

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<sup>1</sup> Language access refers to lenders and servicers providing and accepting written and oral communications in languages other than English for limited English proficient homeowners.

<sup>2</sup> This paper was principally drafted by the National Consumer Law Center (on behalf of its low-income clients), Empire Justice Center, and the National Housing Resource Center based on stories submitted by advocates nationwide between December 18, 2015 and February 12, 2016.

<sup>3</sup> The majority of the collected examples note Spanish as the borrower’s preferred language. *See also* Wealth Project, State of Hispanic Homeownership Report 2015, available at <http://hispanicwealthproject.org/state-of-hispanic-homeownership-report/> (noting that Hispanics accounted for 69 percent of the total net growth in U.S. homeownership in 2015). Other preferred languages cited include Mandarin Chinese, Cantonese Chinese, Vietnamese, Arabic, Korean, Nepali, Burmese, Portuguese, and American Sign Language.

Furthermore, adequate language services can prevent a plethora of common problems by ensuring that LEP borrowers receive accurate and understandable information. We urge regulators and policymakers to act now to provide regulations and guidance to protect LEP homeowners and build a more inclusive financial system that accommodates the new faces of homeownership in America. An accompanying issue brief by Americans for Financial Reform enumerates needed policy changes.<sup>4</sup>

***Lack of language access puts LEP homeowners at risk***

- **Risk of entering a predatory loan.** The lack of translation or interpretation services force many LEP borrowers to seek the help of third-party interpreters. Unfortunately, these interpreters do not always have the borrower’s best interest in mind. Mr. and Mrs. A, Spanish-speaking borrowers from Long Island, New York, were steered into an interest-only loan when they purchased their first home in 2006. At the time of the purchase, a friend of the couple referred them to a mortgage loan officer who did not speak Spanish. As a result, Mr. and Mrs. A relied on their friend to serve as the interpreter. Mr. and Mrs. A obtained an interest only loan, although they were told it was a fixed rate loan. Mr. and Mrs. A later realized that the “friend” may have had a monetary business interests with the loan officer, the title company, and the closing attorney. Fast forward 10 years; in February 2016, they received a letter in English that they did not understand, stating that their interest rate was to reset and increasing their monthly mortgage payment to nearly double, from \$1,983 to \$3,350. It was then that they realized they had not paid a penny towards the principal balance of the loan. They repeatedly contacted their servicer requesting assistance in Spanish, but the servicer failed to provide a Spanish-speaking representative. Fortunately for Mr. and Mrs. A, they have obtained the services of a bilingual housing counselor, who is assisting them in refinancing into a more affordable mortgage. If they were not aware of this assistance, they once again would be at the mercy of an informal interpreter, whose interests might conflict with theirs.
- **Barriers to loss mitigation.** LEP homeowners face significant barriers to getting a proper review for all available loss mitigation options. For instance, Mr. H, a Spanish-speaking borrower in Oregon had a servicer that was aware of his LEP status and attempted to pressure him to sell his home despite his requests to explore home-saving solutions. Mr. V, a New York Spanish-speaking borrower, received a permanent loan modification agreement, but he did not understand the English-only instructions to sign and return the documents by the specified deadline. As a result, Mr. V was denied a

Mr. and Mrs. A, Spanish speakers from Long Island, received an interest-only loan but were told it was fixed rate. Their mortgage payments recently increased to almost double the original payment.

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<sup>4</sup> Americans for Financial Reform, [\*The CFPB and Other Federal Agencies Should Adopt Strong Language Access Protections for Homeowners and Other Consumers\*](#) (May 2016).

modification and must re-start the request for modification process. Ms. S, another homeowner in New York, was improperly denied a modification because she could not clarify her rental income to her servicer. Ms. S had been receiving significant rental income when combined with her employment income, which qualified her for a modification. Her servicer, however, denied her a modification due to lack of income because it incorrectly omitted the rental income from the calculations. The servicer, furthermore, refused to provide a Spanish-speaking representative to rectify the problem. As a result, Ms. S was denied a home-saving solution she was otherwise qualified to obtain.

***LEP homeowners lack language access services.***

Consumer advocates across the country have consistently found that most lenders and servicers do not provide oral interpretation or written translation services when requested by LEP borrowers. Many homeowners are forced to rely on non-expert family (sometimes children) or friends to translate documents or interpret when communicating with their lenders or servicers. The lack of language services leaves a vulnerable group at risk for entering into contracts they do not fully understand, including being targeted for predatory loans. Furthermore, many LEP borrowers are unable to access important loan account information and face additional hurdles when seeking loss mitigation due to language barriers.

- **Lack of written translation.** Many LEP clients' requests for translated documents are denied at origination and throughout the servicing of the loan. For example, Ms. L, a Spanish-speaking homeowner in Massachusetts, was rushed through a closing conducted in English and did not receive translated documents as requested. Ms. L later discovered the real estate agent misrepresented the amount of land included in the purchase. Ms. L has also been denied translated documents from her mortgage servicer and continues to receive English-only communications, which she does not comprehend.
- **Lack of understandable information.** Many LEP homeowners are unable to fully comprehend the terms of their original mortgages due to the lack of translation services. The mortgage market is complex enough for an English speaker, and the complexities are compounded for LEP borrowers. Many LEP borrowers enter into mortgages without

Mr. S, a Nepali-speaking Ohio homeowner, did not adequately comprehend all the English terms and conditions of his mortgage loan resulting in him needlessly paying an insurance premium for an extended period of time.

understanding all the terms of the contract and only know the monthly payment to make. For example, Mr. R, a Spanish-speaking Illinois homeowner, has been paying a mortgage for 10 years, but must now seek a more affordable option as the terms have reset—a situation the homeowner did not anticipate because he did not initially understand the terms of his mortgage. Mr. S, a Nepali-speaking Ohio homeowner, did not adequately comprehend all the English terms and conditions of his mortgage loan resulting in him needlessly paying an insurance premium for an extended period of time. Mr. W, a

Cantonese-speaking homeowner in Pennsylvania, received confusing instructions

regarding the information needed to execute a refinance of his mortgage. Fortunately, Mr. W had the assistance of housing advocates who had substance knowledge of the refinance process and who also possessed the language skills to translate for him and communicate with the bank on his behalf.

Several advocates also flagged the lack of accommodation services for consumers with disabilities, such as vision impairments or hard-of-hearing issues. Mr. P, a hard-of-hearing homeowner in Florida, was denied American Sign Language (“ASL”) services when he attempted to negotiate a refinance of his mortgage. Mr. P’s advocate stated that many ASL users have limited ability to read standard written English because ASL is a visual language with its own unique rules of grammar and syntax.<sup>5</sup> Mr. P’s servicer, however, failed to consider this distinction and attempted to circumvent ASL accommodations by providing written documents, which he could not comprehend.

Mr. P, a hard of hearing homeowner in Florida who uses American Sign Language but has limited ability to read standard written English, faced barriers in refinancing his mortgage.

- **Lack of servicer personnel who speak borrower’s preferred language.** Many LEP homeowners have assigned servicer personnel who do not speak their preferred language and are unable to access important information regarding their account or obtain assistance to correct errors. Calls and messages left to English-only assigned personnel are frequently unanswered and ignored. Some servicers have explicitly stated that they do not have staff that can speak the borrower’s preferred language and refer the borrower to obtain their own interpreter/translator to communicate with the servicer. A borrower facing language access problems when struggling to make the mortgage payment may face many extra months of interest and late fees, and a harder time qualifying for a modification, when language is a barrier to working with a servicer.
- **Inaccurate information about availability of translation.** Other servicers inaccurately state that language services are available. For example, a Washington housing advocate shared that a mortgage servicer explicitly stated to her, as the attorney, that language assistance services were available for borrowers. Yet, when the advocate’s Spanish-speaking client repeatedly called the same servicer on her own, the homeowner was not transferred to a Spanish interpreter. Similarly, Mr. G, a New York homeowner, whose native language is Spanish, had attempted several times to get assistance from his servicer in Spanish since his hardship in 2012. It wasn’t until the homeowner was served foreclosure papers, where the legal documents referenced a Spanish-speaking counseling agency that he got help. After several years of struggling to get help, his mortgage balance had ballooned. Yet, four years after the hardship began, the homeowner was still getting notices in English. One such notice – a missing document letter, was a four page

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<sup>5</sup> See also National Association of the Deaf, What is American Sign Language, <https://nad.org/issues/american-sign-language/what-is-asl> (last visited May 2, 2016).

letter with very specific instructions and a deadline to comply within 30 days, or risk foreclosure or sale of his home. It did have a paragraph at the end that stated in Spanish, “This document is important, call us to translate.” When the client called, he was unable to get specific information on his account in Spanish. The language services provided only relayed unhelpful generic information that the homeowner was in jeopardy of losing his home, and then referred him back to the English customer service number. While Mr. G can get oral assistance from his counselor, the process takes twice as long. Moreover, most homeowners do not have such assistance. Mr. B, an Arabic-speaking borrower in upstate New York, was unable to get a clear explanation from his servicer as to why his automatic payments had stopped and faced foreclosure due to his servicer’s inability to provide information on his account that he could understand.

- **Refusal to accept non-English documents.** Most lenders and servicers do not accept Non-English documents. This creates a problem for many LEP homeowners when they must provide a letter of explanation either at the origination or servicing stage. For example, Ms. F’s hardship letter explaining her reason for defaulting on her loan was rejected by the servicer because it was written in Spanish. She wanted the opportunity to explain in her own words the reasons she fell behind and her determination to get back on track with her mortgage payments. Ms. F wanted to take an active role in saving her house, but instead she had to continue to rely on others to speak for her. While she was lucky enough to have capable assistance, many homeowners seeking to submit hardship affidavits and other letters of explanation are unable to overcome the language barrier.

Ms. F’s hardship letter explaining her reason for defaulting on her loan was rejected by the servicer because it was written in Spanish.

***Language access services that are provided are often inadequate.***

Some mortgage lenders and servicers are providing oral and written translation services. The available services, however, are often unhelpful due to lack of specialized knowledge by company personnel or are difficult to obtain, effectively rendering them either unavailable or unhelpful.

- **Language services provided often are inadequate.** Many homeowners who receive services face poor quality interpretation services. Representatives who speak the borrower’s preferred language often lack the requisite mortgage knowledge to adequately explain information needed at the closing of the mortgage or during the modification application process. In these cases, borrowers still do not know the terms of their mortgage or the type of information requested by the servicer to qualify for a loan modification. Lack of understandable information is also tied to differences in language dialects. Mr. Q, a California homeowner of Mexican descent, could not understand the Spanish-speaking representative because of the difference in dialect. Some homeowners have faced the hostile demeanor of company representatives towards LEP individuals. Although communicating in the borrower’s preferred language, company representatives were rude when speaking to the clients and also failed to take the time to provide

information in an understandable manner, making the process even more confusing for the borrowers.

- **Language services are inconsistent.** Some servicers are providing an array of language servicers, but these services are inconsistent. For instance, Ms. T, an Illinois borrower, had been directly communicating with her servicer in Spanish, even receiving translated written documents. Ms. T subsequently retained a housing advocate to assist her with her modification and in return, the servicer began sending English-only communications directly to Ms. T. She was confused as to why she was no longer receiving documents in her preferred language. Ms. C, a New York homeowner, was able to submit her modification application and many of her supporting documents in Spanish to her servicer; however the servicer refused to accept a letter of explanation written in Spanish. Prior to this refusal, Ms. C applauded the language services provided by her servicer. She felt she was able to take control of her situation and communicate directly with her servicer in applying for loss mitigation. Now, Ms. C had to have a third-party translate her letter into English despite the servicer's demonstrated capacity to communicate in Spanish.

***Regulators and industry need to act now to address language access issues.***

As the stories shared here illustrate, there is much work to be done to protect LEP borrowers and homeowners in the mortgage market. The following is a summary of recommended steps. A complete list of recommendations is provided in AFR's issue brief, [\*The CFPB and Other Federal Agencies Should Adopt Strong Language Access Protections for Homeowners and Other Consumers.\*](#)

1. **Enhance mortgage servicing protections for LEP homeowners**, for example, by flagging the files of borrowers who attempt to communicate in a non-English language with the borrower's preferred language; requiring servicers to provide free, contemporaneous oral translation services for borrowers who request it (including by referring borrowers to a HUD-approved housing counseling agency with the appropriate language capacity); and requiring servicers to provide and accept key documents in the borrower's preferred language.
2. **Provide protections for LEP mortgage applicants**, including by requiring originators to ask applicants in which language they would prefer to communicate and by making written communications and key documents available to mortgage applicants in at least eight non-English languages.
3. **Expand existing supervision and examination procedures to include a review of language accessibility.**
4. **Improve language access to the CFPB's Consumer Complaint Services**, by, for example, requiring CFPB vendors who provide telephonic interpretation to implement certification or training standards to ensure that interpreters are competent to interpret technical terminology on financial products and CFPB increasing its complaint line outreach in non-English languages.

- 5. Improve opportunities for LEP mortgage applicants to find a HUD-approved housing counseling agency with a counselor who speaks their preferred language** by translating the CFPB “Find a Housing Counselor” webpage into multiple languages and making the tool searchable by language(s) spoken.
- 6. Provide affirmative guidance/regulations on standards for addressing language access in financial institutions**, including guidance and standards on oral and written translation and standard glossaries of key mortgage terminology in non-English languages.
- 7. Update data fields for the Home Mortgage Disclosure Act (HMDA) to include the preferred language spoken by the loan applicant.**
- 8. Establish a federal interagency working group to examine strategies for improving data collection and tracking of language preferences of borrowers through the mortgage process, including revision of the mortgage application and the Uniform Borrower’s Assistance Form (UBAF).**

### *More Voices on the Need for Language Access*

*From Alberto Munera, Executive Director, La Fuerza Unida:*

“Language Access is essential to Latino communities and communities of color in order to ensure a continuing path towards improving the socioeconomic gap that separates them from other groups. As a HUD-certified housing counseling agency, La Fuerza Unida works with many homeowners who come to us for housing counseling, because they are at risk of losing their homes because they did not understand concepts such as, balloon payments, interest only rates, ARM rates, escrow accounts and actual real estate taxes when they first shopped for a mortgage. Brokers and loan originators sometimes do not work in the best interest of their clients. Deceptive practices financially harm those whose primary language is not English, especially Latino immigrants, thus preventing them from building assets and wealth.”

*From Maeve Elise Brown, Executive Director, Housing and Economic Rights Advocates:*

“The peril that lenders and mortgage servicers have injected into buying and keeping a home is doubly damaging to anyone with language access problems.”

*From a New York homeowner (translated from Spanish):*

“Finding out that we had gotten an interest only mortgage was definitely the hardest thing. We thought that we knew everything about our mortgage but it turns out that even though we were paying on time, we were only paying interest. Since we don’t know English, we had to depend on what they told us when we bought our mortgage. Everything that we signed was translated for us, because we can’t read English. It would have been better if the documents were in Spanish, so that we could have known what we were signing.”

*From Carrie Roman, Bi-lingual Housing Counselor, Long Island Housing Partnership, Inc. (New York):*

“Communication and understanding is critical to any bilingual person. It is very important to know what you are reading and signing, especially when dealing with signing for a mortgage, or a loan modification, when your home is at risk. Having the option of documents translated in their language is extremely important for clients to have a positive and worthwhile outcome.”

*From a New York homeowner (translated from Spanish):*

“It was very important to us to have a bilingual professional explain legal and financial terms clearly so we were not being pressured to sign documents without understanding what we were signing. We were also grateful to have a bilingual counselor we trusted.”

*From Katherine Angula, Housing Counselor, La Fuerza Unida (New York):*

“Some of the severe challenges that LEP homeowners face while going through a loan modification process are not being able to understand mortgage terms, read their mortgage statements, letters or correspondences from their bank or fill out requests for mortgage assistance applications. It’s really hard for them because not only are they worried about losing their homes, but they are afraid that they might not communicate the right thing due to their limited English. They feel more powerless because they don’t fully understand, and are not able to make their own decisions because they have to rely on someone else to help them.”