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"Home Mortgage Disclosure Act (HMDA)"

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Chairman Watt, Ranking Member Miller, Members of the Subcommittee, good morning. I am Kim Kendrick, Assistant Secretary for the Office of Fair Housing and Equal Opportunity (FHEO) at the U.S. Department of Housing and Urban Development (HUD). On behalf of Secretary Alphonso Jackson, I am honored to have the opportunity to testify before you today.

Homeownership in America is at a historical level – nearly 70 percent of Americans own their home. For individuals and families, homeownership is the key to financial independence and wealth creation. And for our nation as a whole, the housing sector has been vital to the health of the U.S. economy and the stability and vibrancy of our communities.

Understanding the importance of homeownership to our nation's economy, the Department is concerned about the rise in foreclosures associated with subprime mortgage loans and is taking a proactive approach in addressing these problems. As the federal agency charged with protecting homebuyers and homeowners from unlawful discrimination, HUD, and specifically the office I head, FHEO, is committed to doing all it can to ensure that discriminatory lenders are held responsible for their actions.

HUD and FHAP Investigations

The primary way HUD protects homebuyers from discrimination is by aggressively enforcing the Fair Housing Act. The Fair Housing Act prohibits mortgage lending practices that discriminate on the basis of race, color, national origin, sex, religion, disability, or familial status. HUD shares its authority to investigate fair housing complaints, including fair lending complaints, with 106 state and local agencies that HUD has certified through its Fair Housing Assistance Program (FHAP). FHAP agencies enforce state and local laws that provide rights, remedies, and procedures substantially equivalent to those provided under the Fair Housing Act. FHAP agencies handle about 75% of the complaints that allege Fair Housing Act violations.

Since FY 2004, the Department and its state and local partners have investigated about 446 cases of lending discrimination each year. This year we have already completed the investigation of more than 425 lending discrimination cases. These cases may allege discrimination in loan terms, conditions, pricing, or that the lender targeted the borrower for a predatory loan because of race or national origin.

HUD and our state and local partners investigate each of theses cases and, as required by the Fair Housing Act, attempt conciliation. All told, we reach a determination on the merits in about 55 percent of the investigations that allege lending discrimination and reach a conciliation agreement in about 28 percent of such investigations.

Conciliation agreements, voluntary settlements between the parties, provide quick resolution and meaningful relief to the complainant. HUD and the FHAP agencies also ensure that conciliation agreements include terms that satisfy the public interest. This may include a promise by the respondent to comply with the Fair Housing Act and undertake other actions, such as fair housing training for its employees, broader marketing, a monetary contribution to a fair housing agency, or a change in the lender's policies or procedures. If a lender violates a HUD-executed conciliation agreement, HUD may refer the agreement to the Department of Justice for enforcement.

In an example of one lending case investigated by my office, an African-American couple filed a complaint with HUD against First Franklin Financial Bank and Primary Residential Mortgage. The complainants attempted to purchase a home with a fixed-rate mortgage, but alleged that, because of their race, the lender had switched the loan to an adjustable rate mortgage with a prepayment penalty and an additional $4,000 in closing costs. During the investigation, HUD interviewed the parties and reviewed all the loan documentation and closing paperwork. In addition, HUD obtained data on this and similar loans from the lender.

When HUD conciliated the case in 2006, the complainants received $4,000 from the respondents. More importantly, the complainants received a new fixed rate mortgage, waiver of the pre-payment penalty clause, and waiver of closing costs on the new loan, saving them a significant amount of money in interest over the life of the loan. First Franklin Financial Bank and Primary Residential Mortgage also agreed to require fair housing training for all of their employees and to use the fair housing logo in all of their marketing and advertisements.

In another lending investigation, a FHAP agency, the Pennsylvania Human Relations Commission (PHRC) made a finding of discrimination against a lender. PHRC investigated McGlawn & McGlawn, a licensed mortgage broker in the Philadelphia area, and found reasonable cause to believe that the lender discriminated against 10 African-American homebuyers. PHRC specifically found that McGlawn & McGlawn based its entire marketing package on race, using African-American media outlets, including: radio, newspapers, and television, to intentionally target African Americans and their neighborhoods for predatory mortgage loans. McGlawn's predatory lending practices included, undisclosed fees, high interest rates based on the borrowers' race, high points and padded closing costs, falsification of information on documents, failure to disclose information, and high pressure sales tactics. The Commissioners of the PHRC approved a decision that ordered McGlawn & McGlawn to pay the homeowners $885,000 in various damages for violating Pennsylvania's fair housing laws.

These are success stories that HUD is particularly proud of. To further support and encourage this work, HUD set aside $900,000 in its FY2007 budget to encourage state and local agencies to address predatory lending. This funding will be awarded to the FHAP agencies with the best proposal to address the discriminatory aspects of predatory lending within their state. The projects will focus on enforcement of fair housing and lending laws and include education and outreach to teach consumers how not to become victims. As part of the project, the agencies selected to receive funding must be able to assist other states in replicating their initiative.

Systemic Cases

HUD also pursues cases of systemic lending discrimination. These cases involve the policies or practices of lending institutions and affect a large number of borrowers. For example, HUD is currently investigating a number of complaints filed by the National Community Reinvestment Coalition (NCRC) that allege that certain policies of some national lenders discriminate on the basis of race.

While HUD cannot comment on the NCRC cases that are still under investigation, in May 2007, HUD conciliated one of NCRC's cases. NCRC alleged that policies in First Indiana Bank's General Loan Requirements discriminated against African Americans. These policies included: (a) minimum property value restrictions; (b) minimum loan amounts; and (c) refusal to make loans on row houses. As part of the conciliation, First Indiana Bank agreed to pay NCRC $100,000 and to discontinue its minimum property value and no-row home policies. In addition, First Indiana Bank will reconsider any loan that it denied because of these exclusions.

HMDA Investigations

In addition to investigating individual complaints, HUD has the authority to initiate investigations into mortgage lenders even without such a complaint. In September 2005, the Federal Reserve Board (FRB) provided HUD, the Department of Justice (DOJ), and the Federal Trade Commission (FTC) with a list of independent mortgage companies that the FRB had identified as having disparities in the incidence, denial rate, or rate spread of high-cost loans based on the 2004 HMDA data. This was the first year pricing information was included in the HMDA data, allowing the FRB to create this list. The addition of pricing data provides a valuable tool for examining the practices of various lenders. Nevertheless, because the HMDA data does not include critical information such as borrowers' credit scores or the loan-to-value ratio of the properties, it is impossible to ascertain from HMDA data alone if differences in pricing are due to discrimination against minority borrowers. The Department uses its authority under the Fair Housing Act, including its subpoena power, to obtain additional loan information to determine whether the differences in pricing are due to race or can be explained by other factors.

In October 2005, HUD assembled an internal workgroup from various offices – investigators from FHEO, attorneys from its Office of General Counsel (OGC), and economists from its Office of Policy Development and Research (PD&R) – to select lenders from the FRB's list for possible investigation.

HUD met with the FRB to discuss its analysis and obtain the FRB's assistance in further refining its list. In December 2005, HUD requested and received detailed data on eight lenders identified on the FRB's list. This additional data allowed HUD to look at disparities by geographic location, loan type, and other characteristics.

Over the next three months, HUD further narrowed the FRB's list. Investigators from FHEO reviewed housing complaints filed in the previous five years against the identified lenders. FHEO examined the structure, operation, and consumer complaint history of these lenders. FHEO also contacted fair housing and consumer groups to find out if any of those lenders were among those against which they had received complaints. Economists from PD&R analyzed the supplementary data provided by the FRB, focusing on mortgage companies where the matched-pair analysis of HMDA data showed significant rate-spread disparities between minority and white borrowers. During this period, HUD, FTC, and DOJ began to meet regularly to discuss methodologies for reviewing the data and strategies for selecting lenders.

We then selected the lender, where we determined it was most likely we would be able to prove a case of discrimination, and, on April 14, 2006, I authorized a Secretary-initiated investigation based the 2004 HMDA data and other information. We selected this lender, in part, because its 2004 HMDA showed significant disparities in the pricing of loans to minority and white borrowers. That same day, we sent the lender notice of the investigation and a request for information.

At that time, FHEO did not have a full-time economist to assist with lending investigations, so in May 2006, HUD sought a contract for a company to provide expert econometric analysis to assist in its Secretary-initiated investigations. In October 2006, HUD awarded the contract to Integrated Financial Engineering, Inc. (IFE), which offered a team of economists and attorneys with significant lending expertise and the capacity to assist HUD with multiple investigations.

In June 2006, HUD received a written response from the lender. The response provided manuals and guidelines requested by HUD. Later that month, the lender provided one year's loan-level data with a promise of additional data to follow. HUD reviewed the manuals, guidelines, and procedures of the lender and conducted a limited analysis of the lender's data in preparation for the contractor's work. When HUD's contractor came on board in October 2006 to assist with the investigation, the contractor began a more sophisticated analysis of the data submitted by the lender. The contractor found problems with the initial data submission, and in November 2006, the lender resubmitted its loan-level data in a usable form.

From November 2006 through February 2007, HUD's contractor reviewed and analyzed the lender's loan-level data. In February 2007, HUD requested the lender's 2006 data. The Department received this data in March 2007, and the contractor promptly began reviewing it. In March 2007, HUD also received the lender's analysis and explanation of any disparities in its 2005 lending portfolio. HUD and the contractor examined this response and reviewed legal issues in the case. In July 2007, HUD received the lender's analysis of its 2006 loan-level data. HUD is currently reviewing this analysis.

To date, the contractor has analyzed data from more than 300,000 loans and loan applications for this lender alone. In reviewing this data, the contractor has employed multiple statistical methods in order to ascertain whether the difference in pricing between minority and white borrowers is due to race. Analysis of the loan files is made more complicated because the lender has more than 800 different loan products, making it difficult to compare consumers. HUD's investigation of this lender is ongoing.

During this same period, HUD continued to search for additional targets for investigation. In September 2006, HUD requested from the FRB's analysis of subprime pricing disparities in the 2005 HMDA data. Then, using the methodology HUD established for the first lender, HUD began to narrow the September 2006 list for the best targets.

In addition to the contractor's responsibilities to assist in the first investigation, IFE's contract requires it to develop a statistical methodology using the HMDA data to identify lenders that potentially discriminate in pricing. As of February 2007, HUD had already reduced the FRB's September 2006 list to 15 possible targets and had requested detailed data on these lenders from the FRB. In March 2007, HUD received the additional data from the FRB and provided it to the contractor, who analyzed it and ranked the lenders based on criteria that HUD had established.

Based in part on the contractor's analysis of the 2005 HMDA Data, in May 2007, HUD selected two additional independent mortgage companies for Secretary-initiated investigations. On June 5, 2007, I authorized these investigations. HUD sent each lender notice of its investigation and a request for data and information. HUD has received an initial response from each lender and is following up as appropriate.

Three weeks ago, the Department received the 2006 HMDA data from the FRB. We are currently analyzing this data and our complaint information to target lenders with significant pricing disparities for investigation.

Homeowner Insurance Investigations

Another way that HUD protects the rights of homeowners is by ensuring that insurance companies provide homeowners insurance to everyone at equal terms regardless of race, color, religion, sex, national origin, disability, or familial status. This is critical because most homebuyers cannot get a home without a mortgage and cannot get a mortgage without homeowner insurance.

In October 2006, the Department charged Erie Insurance Group and five agencies licensed to sell Erie insurance products with violating the Fair Housing Act by providing less insurance coverage to New York neighborhoods with significant African-American populations. The parties elected to have the case heard in federal court, and the case is currently pending with DOJ.

RESPA Assistance

For homeowners who were not victims of discrimination, but nonetheless obtained a loan with unfavorable terms, fell behind in their mortgage payments, and face the possibility of foreclosure, FHEO coordinates with HUD's Real Estate Settlement Procedures Act (RESPA) Office to secure relief for them.

RESPA does not give the Department the authority to require that a lender cancel a mortgage debt or pay a monetary settlement to a consumer. Nevertheless, HUD's RESPA Office has successfully negotiated loan modification agreements from lenders on behalf of numerous homeowners. If we can fix a mortgage and avoid foreclosure, both the borrower and the lender benefit.

In one such case, referred to RESPA by FHEO, the Department negotiated a loan modification agreement that reduced an elderly African-American homeowner's loan balance back to the amount before the unfavorable refinance and changed the refinance adjustable rate mortgage into a lower rate 30-year fixed mortgage.

These settlements are often the best outcome for a borrower. Usually the homeowner wants to hold onto their home, and may be just one bill away from foreclosure. If we can fix a mortgage and make the person whole, we have served the public.

Oversight of Fannie Mae and Freddie Mac

HUD also assists homeowners by ensuring that the secondary mortgage market operates free from discrimination, through its oversight of Fannie Mae and Freddie Mac. HUD meets with Fannie Mae and Freddie Mac quarterly and reviews all of Fannie Mae's and Freddie Mac's new programs to ensure that they comply with fair lending laws. In addition, HUD regularly reviews the automated underwriting systems of Fannie Mae and Freddie Mac to ensure that they do not discriminate in violation of the Fair Housing Act or Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (FHEFSSA).

Fair Lending Division

In carrying out these investigations, the Department recognized the need to hire additional staff to focus on this effort. For this reason, I have created a new Fair Lending

Division that will review mortgage lending practices throughout the nation. I decided to concentrate this expertise within the Office of Systemic Investigations, which is responsible for overseeing systemic and Secretary-initiated investigations.

We have already hired a senior-level economist and are recruiting five fair lending specialists to complete our Fair Lending Division and enhance our capacity to investigate allegations of mortgage lending discrimination. This Fair Lending Division will investigate discrimination complaints against lenders who have allegedly violated the Fair Housing Act by refusing to make mortgage loans, refusing to provide the same information regarding loans, or imposing different terms or conditions for granting a loan, such as factors based on the race or national origin of the borrower. The Division will also conduct investigations where lending patterns or other information suggests discrimination by a lender, but no individual has come forward to file a complaint. In addition, the Division will conduct HUD's fair lending oversight of the Government-Sponsored Enterprises – Fannie Mae and Freddie Mac – to ensure their underwriting policies and practices comply with fair lending laws.

National Fair Housing Training Academy

To improve the fair lending investigation skills of investigators throughout HUD and in the state and local agencies in FHAP, the Department's National Fair Housing Training Academy has added a course on lending investigations. The Academy will begin offering this course in August 2007. The Academy has engaged some of the foremost experts and instructors in lending to design a curriculum that will provide investigators with practical, hands on approach to developing legal strategies and theories to assist victims of lending discrimination in seeking remedies.

Fair Housing Initiatives Program (FHIP)

HUD also addresses lending discrimination through FHEO's Fair Housing Initiatives Program (FHIP). This program funds community and nonprofit organizations that conduct community-based enforcement of the Fair Housing Act. Through FHIP, HUD provides funding to many fair housing organizations to address lending discrimination. These grants are used to assist victims of predatory lending and lending discrimination, test for discrimination, and conduct education and outreach to prevent lending discrimination.

For example, for the past two years, HUD has awarded FHIP grants to Project Sentinel in California. With this funding, Project Sentinel has partnered with a legal assistance group to screen clients for predatory lending, provide legal consultations and representation of predatory lending victims, and to contact at-risk borrowers in an effort to gather information about their experience with certain lenders. In addition, Project Sentinel has participated in predatory lending meetings in Santa Clara County.

Education and Outreach

HUD's enforcement and oversight activities, however, are not enough to prevent unfair housing practices. We also seek to educate the public about their fair housing rights. To do that, the Department is engaged in a number of initiatives. In April, HUD placed a public service message that was shown in over 700 movie screens across the nation. In addition, HUD has continued to air its award-winning PSAs on television and radio stations. This year, articles to educate the public about fair housing have been published in Essence Magazine and Parade Magazine. In addition, HUD publicly announces all of its charges and major conciliations to inform the public about fair housing enforcement.

FHA

HUD has looked at a variety of ways to protect homebuyers from unsafe loans and predatory lenders who target particular populations, including new legislation. Last fall, Secretary Jackson and Commissioner Brian Montgomery established a plan to modernize the Federal Housing Administration (FHA) so it could reclaim its traditional role of providing a safe and affordable alternative for underserved communities within the housing market. Modernizing FHA would give it the tools it needs to offer more affordable financing options to hard-working credit-worthy borrowers. American homebuyers need FHA.

Legislation to modernize FHA is critical. That's why HUD is so pleased that FHA reforms have been introduced in both the House and Senate to eliminate the traditional 3-percent downpayment requirement, create a new risk-based mortgage insurance premium structure, and raise and simplify FHA loan limits.

Housing Counseling Program

HUD is also educating people looking for houses so that they go into the homebuying process with a greater understanding of their rights. Through its Housing Counseling Program, HUD educates potential homebuyers so that they better understand the process of buying or leasing a home and better understand their rights. An educated consumer is much less likely to be taken advantage of or to enter into overly expensive housing transactions. For this reason, HUD has significantly boosted funds for housing counseling. Up from $8 million in 2001, the President's budget for the coming year proposes $50 million for housing counseling – services that will help families prepare financially for homeownership, get their credit scores in order, learn how to avoid predatory lending, and mortgage defaults. The Housing Counseling Program is just one of many programs that HUD is using to decrease the homeownership gap between whites and African-Americans.

American Dream Down Payment Initiative

At the same time, HUD is attempting to make homeownership more affordable. The American Dream Downpayment Initiative enacted in December 2003 provides closing costs and down payment assistance to low-income homebuyers. In the past three years alone, HUD has made tremendous progress in helping more than 21,000 low-income families with downpayment assistance. Fifty percent of the people helped with this program are minorities. Congress needs to reauthorize this successful program.

Self-Help Homeownership Opportunity Program

The Self-Help Homeownership Opportunity Program (SHOP) provides grant money to national and regional non-profit organizations in order to boost homeownership among low- to moderate-income individuals. Grantees such as Habitat for Humanity International work in local communities and abroad to develop homes through self-help and sweat equity housing initiatives.

Homeownership Voucher Program

Finally, HUD's Homeownership Voucher Program allows families with Section 8 vouchers to use their vouchers to help pay the mortgage for a home that they purchase. Families approved for Section 8 homeownership vouchers can switch from rental assistance to mortgage assistance when they are ready to buy a house. Since the Program's inception in 2000, more than 7,500 former public housing residents have become homeowners. The President's 2008 budget calls for additional funds to assist 10,000 additional families to become homeowners.

Conclusion

Homeownership is the cornerstone of the American Dream. It takes most of us several years to save up or otherwise prepare ourselves to be homeowners. At HUD, we want to be sure that race or national origin is never a barrier to homeownership. We will continue to investigate the cases, continue to obtain meaningful relief for individuals, and continue to eliminate discriminatory practices until we are confident that all lenders are providing all consumers with the loans they deserve.

Thank you for the opportunity to testify today. I look forward to answering your questions.