

# **Making Homeownership Fair: The Role of Fair Lending Enforcement in Promoting Sustainable Latino Homeownership**

Submitted to:

**U.S. House of Representatives Committee on Financial Services  
Subcommittee on Housing and Community Opportunity**

Submitted by:

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My name is Saul Solorzano, and I am the Executive Director of the Central American Resource Center (CARECEN), located in Washington, D.C. My organization has a team of committed staff members whose work includes advocating for greater housing opportunities for this nation's hardworking Latino families. On behalf of CARECEN and the Latino community we serve, I am pleased to present our views for this hearing, "Rooting Out Discrimination in Mortgage Lending: Using HMDA as a Tool for Fair Lending Enforcement." I thank Chairman Watt, Ranking Member Miller, and the other the members of this committee for taking the lead in holding a hearing on this issue. The commitment of this committee to the principles of fair housing is clear, and much appreciated by our community.

CARECEN is a community based organization originally established to provide legal immigration services to Central Americans who were fleeing from human right violations and civil war in the 1980s. Now, CARECEN serves all Latinos in the Washington metropolitan area and runs four programs in the areas of immigration, citizenship, housing and education. As part of our housing program, we provide credit and housing counseling, and prepare potential home buyers to learn about mortgage loans, and budget management. Additionally, we provide technical assistance to tenant associations that are in the process of buying multi-family buildings. CARECEN also refers cases involving potential fair housing discrimination to the Equal Rights Center and the Washington Lawyers Committee for Civil and Human Rights, both in Washington, DC.

During this fiscal year, CARECEN became one of 37 affiliates of the National Council of La Raza's National Homeownership Network (NHN). The National Council of La Raza (NCLR) has been a national intermediary designated by the Department of Housing and Urban Development (HUD) to distribute funds for housing counseling. The NCLR Homeownership Network (NHN) consists of 37 NCLR affiliates in 20 states which provide pre-purchase bilingual homeownership counseling to low-income families in predominately Latino neighborhoods. NHN counsels more than 20,000 families each year, of which more than 3,500 become homeowners. NHN has sophisticated partnerships with some of the nation's largest providers of home mortgages such as Bank of America, Countrywide, JPMorgan Chase, Washington Mutual, Wells Fargo, Fannie Mae, and Freddie Mac.

For over 10 years, CARECEN has worked to create opportunities for Latinos and other underserved communities to access homeownership. For example, CARECEN is providing development assistance to a cooperative association in Washington, DC and has already helped to secure the purchase of a multifamily building (147 units) and a construction loan to upgrade the building which later will be turned into a condominium. The condominium will have at least 100 units to be sold to current members at an affordable, inside price. As you well know, homeownership is a critical wealth-building tool for our families. Their home is their ticket to a secure retirement, or a chance at a better life for their children. Unfortunately, lending discrimination persists in the mortgage market and, as a result, many Latino families are seeing their financial safety-net eroded.

## **The Need for Fair Housing Enforcement**

Discrimination against Latino home-seekers is not a new issue, and given the current backlash against immigrants, we have reason to believe that it may be intensifying. For example, in 2000 the Department of Housing and Urban Development released a study using paired testing to gauge incidences of discriminatory acts whereby a minority and a White tester are given identical financial information and apply for the same apartment or home loan. The study found that nearly one in five Hispanic homebuyers and more than one in four Hispanic renters experience some act of discrimination while searching for their new home.<sup>1</sup> While discrimination against Hispanic homebuyers had decreased since the previous HUD-sponsored report (completed in 1989), the incidence of discrimination against Hispanic renters rose, while the same figures fell for other renters. This is troubling in light of the important contribution that Hispanic families make to the renting market, accounting for just over 17% of all renters.

Other evidence suggests a potential rise in housing discrimination against Latinos nationwide. In response to what can only be called a backlash against hardworking immigrant families, some local municipalities have selectively enforced their zoning laws to target Latino families. In 2004, for example, the Department of Justice (DOJ) settled a case against Bound Brook, New Jersey, in which an elected official was found using an Internet chat site to solicit addresses of Latino-occupied units for selective housing code enforcement. In other areas, cities have passed new laws that are designed to keep large immigrant families out of their neighborhoods. The *Washington Post* recently reported that Latino families are targets of housing-related complaints and searches that are without merit (determined by the fact that no infractions of the code were found).<sup>2</sup> In addition, analysis of the 2004 Home Mortgage Disclosure Act data confirms earlier research and findings that Latinos and other minority and low-income families are disproportionately receiving higher-cost home loans, even when controlling for key loan characteristics such as income, loan amount, property location, co-applicant, and gender.<sup>3</sup> Some colleagues and friends in the housing advocacy community tell us that based on 2005 HMDA data, they have not seen any evidence that this disturbing trend is in decline.

Local ordinances approved recently in Prince William and Loudoun counties in Virginia are most likely to aggravate discrimination faced by Latinos. Why? Because on the one hand, some vocal activists are bringing their anti-immigration agenda disguised under “overcrowded home” enforcement initiatives and on the other, extended family members choose to live under the same roof to make it possible to pay for mortgages a single family can not afford. Many Latino families—which, by the way, reside legally in the country—and others who are also US citizens will be victimized not only once, but twice, or even three times. A family who has been a victim of predatory lending and is paying for an overpriced home with a high mortgage—or higher interests—will have to deal with foreclosure, fines and potential displacement.

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<sup>1</sup> Turner, M.A., S.L. Ross, G.C. Galster, and J. Yinger, *Discrimination in Metropolitan Housing Markets: Phase I*. U.S. Department of Housing and Urban Development, 2002.

<sup>2</sup> McCrummen, Stephanie, “Concerns Persist About Manassas Anti-Crowding Efforts,” *The Washington Post*, Thursday, February 23, 2006, VA15; and Stewart, Nikita, “Prince William Sizes Up Crowded Housing Problem,” *The Washington Post*, Wednesday, February 22, 2006, B02.

<sup>3</sup> Ernst, Keith and Debbie Goldstein, “Comment on Federal Reserve Analysis of Home Mortgage Disclosure Act Data.” Washington, DC: Center for Responsible Lending, September 14, 2005.

Housing discrimination is a major societal concern and undermines the fundamental American commitment to equal opportunity under the law, and for that reason alone society should be committed to its eradication. That said, there are more readily tangible harms to victims and communities as a result of discrimination. The most obvious and measurable is segregation. Major studies of segregation patterns have identified a trend of rising segregation levels after an historical low in the mid-1980s. Neighborhood segregation contributes to cycles of poverty, segregated and underperforming schools, and decreased access to city services and jobs. Moreover, limited housing mobility undermines wealth creation and economic mobility.<sup>4</sup>

## **Lending Discrimination**

Allow me to share with you the story of Mr. and Mrs. Sanchez. The couple settled in the Washington, D.C. area after fleeing the civil war in their home country of El Salvador. After ten years of hard work, the Sanchezes decided to purchase their first home. Eager to find their dream home, they were unaware of the discriminatory tactics being used against them. Their lender quickly identified the couple as first-time homebuyers and steered them into an overpriced home loan. Even though Mr. and Mrs. Sanchez had paid their bills on time for years, they had never had a credit card. Their lack of credit history made them an easy target for a predator set on steering them into a loan that was highly profitable. Not only did the couple waste their hard earned money on unnecessarily high fees—money that could have been spent on home improvement projects—but they found themselves in a loan situation that quickly became unaffordable. The Sanchez came to our office three weeks ago, 50 days behind on their mortgage payment.

The experience of the Sanchezes is one example of the story the HMDA data tells us. Several studies have documented the fact that Latinos are more likely to receive high cost mortgages, even when controlling for contributing factors. The Federal Reserve found 200 lenders whose HMDA data appeared suspicious, yet no enforcement action has come from any of the regulatory agencies. Moreover, more can be done to leverage the HMDA data collection system to better inform public policy and enforcement capacity. HMDA does not collect loan-to-value ratios, co-applicants, type of loan program and documentation standard (such as Adjustable Rate Mortgages or Stated-Income), or credit information. The data must include enough information to hold lenders accountable and be easily accessed by community-based organizations.

## **Current Enforcement System**

Clearly the need for an effective fair housing system has never been greater. Regrettably, the current fair housing system has fallen short of the needs of the Latino community in three key ways.

- **Many Latinos are unaware of their rights.** Because there have historically been so few Latino-focused community-based organizations involved in fair housing outreach,

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<sup>4</sup> See: Logan, John R., *Separate and Unequal: The Neighborhood Gap for Blacks and Hispanics in Metropolitan America*. University of Albany, Lewis Mumford Center for Comparative Urban and Regional Research, 2002; Sandoval, Juan Onesimo, Hans P. Jonson, and Sonya M. Tafoya, "Who Is Your Neighbor: Residential Segregation in California," *California Counts* 4(1), 2002; Orfield, Gary and Chungmei Lee, *Brown at 50: King's Dream or Plessy's Nightmare?* Harvard University Civil Rights Project, 2004; and Orfield, Gary, *Housing Segregation: Causes, Effects, Possible Cure*. Harvard University Civil Rights Project, 2001.

education, and testing, there is a lack of a cultural awareness of the civil rights enforcement system in general and the fair housing system in particular. The result is that many Hispanics who encounter housing bias may not recognize it when it occurs. The National Fair Housing Alliance's (NFHA) *2003 Fair Housing Trends Report* estimates that, based on HUD findings of a 27% discrimination rate against Hispanic renters and on the average number of Hispanic families who move each year, Hispanics alone probably encounter at least 441,085 incidents of discrimination a year. However, there were only 25,000 total claims filed on behalf of all protected classes during 2002.<sup>5</sup> Further, many federal and local offices, as well as agencies funded by the Federal Housing Initiative Program and the Federal Housing Assistance Program (the two major federal sources for fair housing funding), lack bilingual staff and materials, which inhibits effective outreach to the Hispanic community; and many Latino families do not understand their rights, are reluctant to report discrimination, or do not receive information about subsidized housing programs.

- **Enforcement systems do not meet the needs of victims of housing discrimination effectively.** Despite the widespread discrimination encountered by Latinos in the housing market, there is substantial evidence that the fair housing enforcement system fails to adequately enforce their rights. For example, Hispanics are severely underrepresented in federal charge caseloads and litigation and in complaints filed with state-local enforcement agencies and private fair housing groups. A review of the U.S. Department of Justice's publicly-available case summaries for housing and civil rights enforcement, for example, reveals that it has pursued only 22 fair housing cases involving Latino plaintiffs between 2000 and January 30, 2004 and filed one "amicus curiae" brief out of more than 180 cases.<sup>6</sup> This litigation on behalf of Hispanics constituted less than 13% of all DOJ's caseload over this period. The fair housing system relies heavily on victims reporting incidents of discrimination, which requires victims to know their rights, to realize they have been discriminated against, and to be comfortable reporting the incident. Immigrants in particular face considerable intimidation when filing a complaint. We have heard many reports from community organizations that landlords or homebuying agents threaten to have families deported, even when a family is legally present and the threat is baseless. These intimidation tactics only serve to keep all Latinos from trusting the fair housing system. In the fair lending arena, the effectiveness of fair lending testing is limited to the pre-application phase.
- **Funding for fair housing has not been a priority.** Unfortunately, Latinos have not been welcomed as mainstream stakeholders in the fair housing system. As a result, there is a lack of mainstream fair housing agencies that have the capacity to serve the Latino community effectively, and even fewer Latino community-based organizations are engaged in the field of fair housing. Although anecdotal evidence suggests that a significant number of mainstream fair housing agencies have some capacity to serve the Hispanic community, it is still far from the norm for Latinos or other bicultural or

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<sup>5</sup> *2003 Fair Housing Trends Report*, National Fair Housing Alliance.

<sup>6</sup> U.S. Department of Justice, *Case Summaries*, 2004. World Wide Web page <[www.usdoj.gov/crt/housing/documents/casesummary.htm](http://www.usdoj.gov/crt/housing/documents/casesummary.htm)>.

bilingual staff to be proportionately represented in such agencies. NCLR research shows that Latino-serving agencies do not receive the funds they need to adequately reach the Latino community. The funds they do receive are more often focused on outreach but not on enforcement. Given recent demographic changes and the research findings documenting a high incidence of housing discrimination against Hispanics, one might expect a substantial portion of funding to be targeted to agencies building Latino-focused capacity, or Hispanic organizations seeking to build fair housing capacity, or both.

## **Recommendations**

- **Make fair housing a priority.** Congress must increase funding available for all fair housing programs. Funds should be directed to education and outreach to underserved populations, such as immigrants and language minorities, and to enforcement of fair housing and fair lending laws. CARECEN supports using paired-testers serving as part of a fair housing test as a method of rooting out incidences and patterns of discrimination. Congress should create an exemption from the fraud standard to allow paired-testers in fair lending trials to go beyond the pre-application phase. Finally, we also recommend that HUD, DOJ, and the bank enforcement agencies partner with civil rights organizations to launch a broad, public education campaign in multiple languages to inform families about their rights under the fair housing act.
- **Enhance HMDA data and collection system.** HMDA data is a powerful tool for enforcing fair housing violations, as well as holding lenders to a high level of accountability. However, more needs to be done to complete the picture and make the data readily available to the public. CARECEN supports previous recommendations to create an advisory board that would provide advice and feedback to the regulatory agencies regarding enforcement strategies and the loan variables that should be collected. Regulatory agencies must collect more information, such as the origination source of a loan, the loan-to-value ratio, loan type and documentation, credit, and other data, to detect discrimination.
- **Get the Community Involved.** Clearly, there are not enough resources to combat lending and housing discrimination. Federal enforcement agencies, private nonprofit fair housing grantees, and state and local enforcement agencies must work with community-based institutions that have their community's trust and confidence. This can be done by sponsoring enforcement taskforces at the state and local level that bring together all stakeholders, as well as by fostering pilot programs that train community-based organizations to spot discrimination and file complaints.

## **Conclusion**

Discrimination in the housing market continues to undermine the efforts of organizations, such as CARECEN, to build wealth in underserved communities. CARECEN appreciates the commitment of this committee to the ideals of equal access, and we trust that members of Congress will recognize the urgent need to stop these unfair practices and will act on their commitment to make fair housing a priority. We stand ready to work with you in any way we can.