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"Growing To Meet Community Needs"

## **RIVER CITY COMMUNITY DEVELOPMENT CORPORATION**

May 30, 2002

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Regulation Comments  
Chief Counsel's Office  
Office of Thrift Supervisor  
1700 G. Street, NW  
Washington, DC 20552

Attention: Docket No. 2002-17

To whom it may concern:

As a member of the National Community Reinvestment Coalition, River City Community Development Corporation strongly supports the proposed changes to the Office of Thrift Supervisor's regulations implementing the Alternative Mortgage Transaction Parity Act (AMTPA). River City Community Development Corporation has been involved in combating predatory lending for several years. We have repeatedly seen instances in which unscrupulous lending institutions have used prepayment penalties to trap borrowers in abusive loans. Borrowers have also faced stiff late fees associated with abusive loans. The current AMTPA regulations have facilitated the proliferation of prepayment penalties and late fees in predatory loans.

AMTPA has outlived its usefulness. Congress passed AMPTA in 1982 during a high interest rate environment in order to provide state-chartered institutions the ability to offer adjustable rate mortgages (ARMs) and other alternative mortgages. At that time, many states had outlawed ARMs. From 1983 to 1996, the Federal Home Loan Bank Board (the OTS' predecessor agency) and the OTS granted state-chartered thrifts and non-depository institutions preemption under AMTPA from state law on alternative mortgages so that they could offer ARMs. During this time period, however, the Bank Board and OTS did not allow institutions to preempt state law on alternative mortgages that limited prepayment penalties and late fees. In 1996, the OTS inexplicably reversed course and allowed institutions to preempt state limits regarding prepayment penalties and late fees on alternative mortgages.

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allowed institutions to preempt state limits regarding prepayment penalties and late fees on alternative mortgages.

This single change in the OTS regulations during 1996 significantly contributed to the dramatic increase in predatory lending of the last few years. Non-depository institutions and mortgage companies that were state-chartered applied prepayment penalties at such a high rate that the great majority of subprime borrowers (about 80 percent) now have prepayment penalties. In contrast, only 2 percent of prime borrowers have prepayment penalties on their loans according to Standard and Poor's. This huge difference in the application of prepayment penalties suggests that prepayment penalties trap subprime borrowers into abusive loans, and that subprime borrowers do not freely accept prepayment penalties as a means of lowering their interest rates.

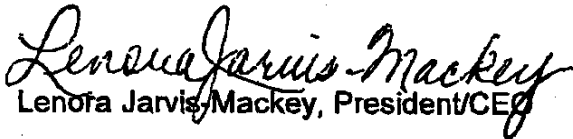
*River City Community Development Corporation has many challenges when it comes to working with clients in order to prevent foreclosure. But there is one special case that is interesting. This individual is elderly and needed repairs done to her home immediately. She received some mail from this particular lender stating, do you need money for a vacation, school, repairs, vehicle, look know further we can approve you in 1 hour. Our client was desperate to make urgent repairs to her home. She filled out the application was approved, and signed the papers. What she did not know was that she was signing a balloon mortgage. She could not read that well and trusted the lender to assist and explain to her what was in the contract. Our client went from know mortgage to 400.00 a month, which was hard for her to maintain monthly on a fixed income. She came to us for counseling once she saw that she would not be able to make her mortgage on time. In reviewing her contract we noticed a balloon, and took action immediately. We're still in the process of solving this matter.*

The OTS correctly notes in its proposal that prepayment penalties and late fees are not integral elements of alternative mortgages. The OTS also reports that all states but one now allow ARMs, meaning that AMTPA is no longer needed. Instead, predatory lenders are using AMPTA and the existing OTS regulations to evade state law on alternative mortgages and prey upon unsuspecting and vulnerable borrowers. River City Community Development Corporation notes that the OTS could have made its proposal stronger. The AMTPA statute provides OTS with the discretion to prescribe general limits on loan terms and conditions. The OTS could have adopted a two-year limitation on prepayment penalties for the alternative mortgages issued by all the institutions it regulates including federally chartered thrifts, state-chartered thrifts and non-depository institutions. The limitation would also stipulate the maximum amount of the prepayment penalty at one percent of the loan amount. Currently, victims of predatory lending are confronted with paying about 5 percent or higher of the loan amount as a prepayment penalty.

River City Community Development Corporation believes that limiting prepayment penalties across the board would have achieved a greater degree of uniformity in the regularly framework for different institutions. If the OTS does not adopt a more prescriptive approach, River City Community Development Corporation strongly urges the OTS to stick with its proposal and to resist industry calls to weaken its proposed regulatory changes.

We applaud the OTS for proposing this change to their AMPTA regulations and ask the OTS to implement this change as quickly as possible after the close of the public comment period.

Sincerely,

  
Lenora Jarvis Mackey, President/CEO

Cc:  
National Community Reinvestment Coalition