

The National Commission on Fair Housing and Equal Opportunity

with



**Henry Cisneros
Jack Kemp
Co-Chairs**

September 24, 2008

The Honorable Christopher Dodd
United States Senate
Washington, DC 20510

The Honorable Barney Frank
United States House of Representatives
Washington, DC 20515

The Honorable Richard Shelby
United States Senate
Washington, DC 20510

The Honorable Spencer Bachus
United States House of Representatives
Washington, DC 20515

Dear Chairman Dodd, Ranking Member Shelby, Chairman Frank, and Ranking Member Bachus:

The National Commission on Fair Housing and Equal Opportunity has been convened by four national civil rights groups to examine the successes and failures of fair housing enforcement and housing segregation in this country on the 40th anniversary of the Fair Housing Act. Hearings have been conducted in Chicago, Houston, Los Angeles and most recently in Boston on September 22.

We have heard extensive testimony about the origins of the current foreclosure crisis, and the predatory and discriminatory lending practices which have had a direct and significant impact on African American and Latino homeowners and neighborhoods.

We have heard testimony about communities, state and local governments all over this country devastated by foreclosures, with many more residents on the brink of foreclosure, and we have concluded that without prompt civil rights oriented action, this crisis will leave neighborhoods with abandoned homes, eroding tax bases, increased crime rates, and a loss of wealth in minority communities which will represent the greatest loss of wealth to homeowners of color in modern U.S. history. African-Americans and Latinos will lose up to \$213 billion as a result of this crisis.¹

The Commission urges you to incorporate the following fair housing and fair lending principles in the legislation being considered:

- **The rights of individual borrowers must be protected.** The legislation must protect and support the rights of borrowers to remain in their homes to avoid the

¹ This is an estimate for subprime loans taken during the past eight years. Rivera, Amaad et al. *Foreclosed: State of the Dream 2008*; United for a Fair Economy; 2008.

- destruction of families, neighborhoods and communities. Homeowners must be permitted to use existing rights and remedies under all laws to preserve their homeownership.
- Just as lenders are receiving financial support through federal legislation, **provisions to enable individual homeowners to keep their homes should also be included.** Consideration must also be given to providing support for those homeowners who have already lost their homes.
 - The **legislation should create incentives for lenders to prefer working out arrangements with homeowners over foreclosures so families can remain in their homes.** The rights of families to remain in their homes and communities must be preserved. **Lenders and servicers must be given incentives to make loan modifications available** that will be sustainable for the life of the loan.
 - This legislation should **provide protection against evictions for tenants** in single family and multifamily rental housing units that are in foreclosure.
 - **Standards or provisions developed in the legislation shall not discriminate** and must be analyzed to make sure that they do not violate the Fair Housing Act, either intentionally or unintentionally.
 - **Individual rights to live in stable and integrated communities must be protected.** Borrowers must be advised of their fair lending rights. All decision making by the executive and legislative branch must be reviewed for civil rights concerns and possible enforcement.
 - To the extent that federal funds are used to provide funds for lending bailouts, that **funding is subject to the requirements in the Fair Housing Act to affirmatively further fair housing.** We bring to your attention the following important principles:
 - Federal funds are subject to the provisions of the Fair Housing Act, and specifically 42 U.S.C. 3608a requiring recipients of federal financial assistance to act affirmatively to further fair housing.
 - Expenditure of federal funds as part of this legislation must take into account the characteristics of the neighborhood, including the obligation not to perpetuate segregation and to support integration.
 - Congress must **consider increased protections against lending discrimination,** increased assurances that will protect against predatory lending and lending discrimination, and increased utilization of fair housing and fair lending protections to avoid a reoccurrence of this problem.
 - **Amending the bankruptcy law** to permit bankruptcy judges to modify home mortgages would be an important effort in providing protection for homeowners.
 - **The current bailout must include provisions for monitoring and review, including compliance with civil rights and fair housing/fair lending.**

The current financial crisis resulted in large part due to insufficient fair lending enforcement and a resistance to more vigorous regulation of the subprime market. Congress has a unique opportunity to take action to try to correct some of the failures of the market. Swift action must be taken to benefit homeowners who were unwitting victims of discrimination.

We have heard testimony about the origins of today's foreclosure patterns in neighborhoods that have been racially and ethnically segregated and that were redlined by FHA lending practices years ago, which are now victimized by lending discrimination. We have heard testimony about the depth of lending discrimination against Latinos, with projected foreclosures for 2008 at \$92 billion. Although we know that the foreclosure crisis has hit borrowers who are White, Black, Asian American, and Latino, all of the available data tells us that African Americans and Latinos—and neighborhoods of color—will bear the harshest consequences of the foreclosure fallout.

The current financial crisis resulted in large part from discriminatory practices in the lending market as the following facts indicate:

- African-American and Latino homebuyers “face a statistically significant risk of receiving less favorable treatment than comparable Whites when they ask mortgage lending institutions about financing options.”²
- African-Americans are much more likely than their White counterparts to receive a loan denial.³
- African-Americans and Latinos are more likely to receive payment-option and/or interest-only mortgages than their White counterparts.⁴
- African-Americans and Latinos are much more likely to receive a subprime loan than their White counterparts according to HMDA data. Roughly 54% of African-Americans and 47% of Latinos received subprime loans compared to approximately 17% of Whites.
- Even higher income African-Americans and Latinos receive a disproportionate share of subprime loans. According to one study that analyzed more than 177,000 subprime loans, borrowers of color are more than 30 percent more likely to receive a higher-rate loan than white borrowers, **even after accounting for differences in creditworthiness.**⁵
- Another study revealed that high income African-Americans in predominantly minority neighborhoods are three times more likely to receive subprime loans than low-income whites.⁶
- According to a HUD study analyzing homeownership sustainability patterns among first-time homebuyers, it takes African-Americans and Latinos longer to become homeowners. However, once homeownership status is attained, these groups lose their status the quickest. The study reveals that the average homeownership stay for Whites, Latinos and Blacks is 16.1 years, 12.5 years and 9.5 years respectively.
- After foreclosure, the duration of renting or living with relatives is 10.7 years for Whites, 14.4 years for African-Americans and 14.3 years for Latinos.⁷

² Turner, et al. *All Other Things Being Equal: A Paired Testing Study of Mortgage Lending Institutions*. The Urban Institute, 2002.

³ Carr and Megboulugbe. “The Federal Reserve Bank of Boston Study on Mortgage Lending Revisited.” *Journal of Housing Research*, Volume 4, Issue 2, Fannie Mae, 1993.

⁴ *Exotic or Toxic? An Examination of the Non-Traditional Mortgage Market for Consumers and Lenders*. Consumer Federation of America, May, 2006.

⁵ See Bocian, D. G., K. S. Ernst, and W. Li, *Unfair Lending: The Effect of Race and Ethnicity on the Price of Subprime Mortgages*, Center for Responsible Lending, May 2006, p. 3.

⁶ *The Impending Rate Shock: A Study of Home Mortgages in 130 American Cities*. ACORN 2006.

We urge you to include these principles in the legislation because without a strong civil rights component, the legislation will ignore people of color whose lives and communities are being devastated, again, by unlawful discrimination.

Sincerely yours,



Henry Cisneros
Co-Chair



Jack Kemp
Co-Chair

Commissioners

(Titles listed for identification purposes only)

Pat Combs
Immediate Past President,
National Association of Realtors

Okianer Christian Dark
Associate Dean for Academic Affairs
Howard University School of Law

Myron Orfield
Executive Director
Center on Race and Poverty

I. King Jordan
President Emeritus
Gallaudet University

Gordon Quan
Former President Pro Tem
City of Houston

⁷ Donald R. Haurin and Stuart S. Rosenthal, *The Sustainability of Homeownership: Factors Affecting the Duration of Homeownership and Rental Spells*. U.S. Department of Housing and Urban Development Office of Policy Development and Research, December, 2004.

cc: President George W. Bush
Secretary Henry Paulson
Chairman Ben Bernanke
Chairman Christopher Cox
Director James Lockhart
Secretary Steven Preston
Senator Charles Schumer
Senator Mike Crapo
Representative Maxine Waters
Representative Shelley Moore Capito