

**Remarks for Kim Kendrick
Assistant Secretary for Fair Housing and Equal Opportunity
The Housing Advocates, Inc. Fair Housing and Lending Conference**

**A Housing Perspective: The State of Housing Discrimination in America
October 20, 2006**

I would like to thank Edward Kramer and The Housing Advocates, Inc. (HAI) for inviting me here tonight to celebrate and to commemorate the many wonderful achievements of this organization. HAI has a well-deserved reputation as a strong advocate for fair housing. In this advocacy role and for the past 31 years, HAI has dedicated itself to promoting both fair and equal housing opportunity for all individuals. I applaud your hard work in addressing these issues.

I would also like to thank you for bringing together such a distinguished audience represented from state and local government, the lending and banking industry, the legal community, and other fair housing groups to discuss fair housing discrimination.

Ohio has a rich history of civil rights advocacy and particularly fighting to end housing discrimination for all citizens. As I am sure, many of you are familiar with the 1969 landmark federal case, *Bush v. Kaim*, heard in the Northern District Court of Ohio. In this case, an African-American man and his family who were relocating to the Cleveland, Ohio area attempted to rent a home but were turned away due solely to race. The Court determined that the defendant's action in preventing the rental of the home in question to the Bushes constituted a violation under Title VI of the Civil Rights Act of 1964. The Bushes were denied the same rights as enjoyed by white citizens to lease rental property because of their race.

And although this case occurred in 1969, many individuals still continue to encounter housing discrimination in our present day. While it is clear that we are all committed to the issues of fair housing and equal opportunity and have come together tonight to

celebrate our progress, we also know that we still have much to do in achieving fair housing for all. It is through our continued efforts in education, outreach, collaborative partnering, and enforcement that we get closer to achieving this goal.

And speaking of collaborative partnering, I want to congratulate the Housing Advocates, Inc. for being one of our FHIP grant recipients in 2006. With this grant, the Housing Advocates, Inc., will provide fair housing enforcement services in the Cleveland-Cuyahoga County metropolitan area and Geauga County. Housing Advocates will provide complaint intake, investigation, and referral services, and conduct testing of the housing market for discrimination. In particular, Housing Advocates will conduct tests of housing providers for linguistic profiling. Housing Advocates will focus its activities on assisting African immigrants and persons with disabilities with reporting housing discrimination and predatory lending, but will make its services available to all.

Over the past four years, HUD studies have shown that racial and ethnic minorities experience housing discrimination in approximately one in five encounters with sales or rental agents. In addition, a recent HUD study on mortgage lending found that whites were treated better than minorities when inquiring about loans. The discrimination found in the studies was **usually** very subtle. In other words, the minority testers almost never realized that they had received inferior treatment compared to the white testers.

Indeed, the studies found that few real estate agents and lenders would blatantly refuse to do business with minorities. However, the studies suggest that some housing providers or lenders use other tactics to discriminate against racial and ethnic minorities and other groups.

To illustrate, HUD recently settled a complaint filed by an African-American woman after Cincinnati-based Fifth Third Bank allegedly denied her a loan to purchase a house because she failed

to meet their underwriting guidelines. The complainant, however, believed she was really being discriminated against because of her race.

HUD's investigation revealed that during the same time Fifth Third disapproved the loan request, it approved loans for individuals with poorer credit histories and lower FICO scores.

As required by the Fair Housing Act, HUD attempted to resolve the complaint through conciliation. In May of this year, Fifth Third Bank agreed to settle the matter by paying the complainant \$125,000 and agreeing to several other provisions that will help create affordable lending opportunities for other minorities.

HUD also receives many complaints alleging that policies that housing providers and lenders believe are neutral actually have the effect of discriminating against minorities.

Just a few weeks ago, HUD announced that it conciliated a complaint filed by the National Community Reinvestment Coalition against mortgage lender SouthStar Funding. NCRC had filed a complaint alleging that SouthStar's policies of refusing to make loans on any row house valued at less than \$100,000 and on all row houses in Baltimore had the effect of discriminating against minorities because row houses valued under \$100,000 are more heavily concentrated in African American and Hispanic neighborhoods and approximately two-thirds of Baltimore's row houses are located in those areas.

As part of the conciliation agreement, SouthStar Funding, among other things, agreed to discontinue using property type to exclude borrowers trying to purchase row houses, and no longer use a minimum property value as an absolute bar to the making of any loan. Instead, SouthStar will use the same underwriting

criteria as it uses on loans secured by condominiums and townhouses.

As this case demonstrates, seemingly neutral policies sometimes impose discriminatory barriers on minorities and others when searching for mortgage loans. Regardless of whether these policies are the result of covert attempts to discriminate or the result of simple oversights, it is clear that we must examine lending policies and practices to make sure that they do not have the effect of discriminating based on race, ethnicity, or other protected characteristics.

In addition to making sure that minorities and low-income persons have equal access to lending services, it is also important to make sure that they have access to competitively priced loans.

HMDA [Home Mortgage Disclosure Act] data show that minorities are more likely than whites to receive high-cost loans

and this is true even for upper-income minorities. Several recent studies substantiate this finding¹. One study showed that black and Hispanic homebuyers are far more likely to pay high mortgage rates than white borrowers with similar credit rating and income levels. Another showed that 40 percent of African Americans and 23 percent of Hispanic homebuyers pay interest rates at three percent above market.

We know that part of the problem is that in many inner cities, the “corner bank” is usually a high-cost lender or a payday shop. While the Community Reinvestment Act has helped to improve the situation, there are still a number of minority neighborhoods that are underserved by conventional lenders.

The lack of conventional banks makes it easier for predatory lenders to operate. Without competition, it is easier for predatory

¹ Do We Know More Now?; Discrimination Against Persons with Disabilities; Housing Discrimination Study 2000; All Other Things Being Equal: A Paired Testing Study of Mortgage Lending Institutions; and How Much Do We Know

lenders to dupe homeowners who are house rich and cash poor into taking out high-cost refinance loans.

The consequences of predatory loans have been disastrous for many families and communities. A number of low-income and minority families already have been robbed of their equity and had their credit ruined by predatory lenders. We all must do everything we can to stop this trend.

HUD is working hard to enforce the fair lending provisions of the Fair Housing Act. We are sending lenders the same message we send to property owners: anyone who is found to engage in redlining, gouging, or other predatory practices will be made to explain their actions or pay for their actions.

Last year, based on our review of 2004 HMDA data, HUD identified several sub prime lenders it determined had significant disparities in loan pricing for white and minority borrowers. We

have assembled a team of experts, consisting of banking experts, fair housing investigators, economists, and attorneys who are at work on an open Secretary initiated investigation² and looking at other possible targets.

As long as homeownership continues to be the primary way for families to build wealth, increasing homeownership among low-income families will be the key to helping families end the cycle of poverty.

While I certainly do not have all the answers, I believe that we can go a long way in improving the situation for many low-income and minority families by making sure that they have realistic, understandable, and accurate information that is

² HUD uses a variety of factors to determine which lenders may be the subject of a HUD Secretary-initiated investigation. For example, some indicators HUD might look at are: whether the lenders has been the subject of many complaints filed with HUD, whether many community groups have cited the lender as engaging in possible lending discrimination. HUD might also consider the size of the lender of the volume of loans they make. By no means is this an exhaustive list of factors, nor necessarily factors that will dictate every case.

necessary to purchase a home or to avoid losing their homes to predatory lenders.

To help with education, on September 25, 2006, HUD awarded \$39.1 million in housing counseling grants to more than 400 state and local agencies. Of this amount, \$3 million is being awarded for counseling specifically for elderly homeowners who seek to convert equity in their homes into income that can be used to pay for home improvements, medical costs, or other living expenses.

President Bush recognizes the importance of taking affirmative steps to help low-income and minority families become homeowners. That is why, four years ago, he challenged HUD to create 5.5 million new minority homeowners by 2010. We are already about halfway to our goal. The minority homeownership rate is the highest it has been, and, over the last year and one half, the minority v. white homeownership gap has dropped below 25

percent for the first time. We are truly making great progress in the area of homeownership.

Many of these families have reached the dream of homeownership via private housing counseling organizations funded by HUD and through innovative HUD programs like the American Dream Down Payment Initiative, or the Housing Choice Voucher Homeownership Program, which allows families to put their rental assistance toward a mortgage instead.

HUD is pro-actively working to help minorities and others become homeowners by making the home owning process less burdensome so that they will not have to turn to the sub prime market for a loan to buy a first home. In July 2006, the House of Representatives passed HR 5121, "Expanding American Homeownership Act of 2006.

This Bill would modernize the Federal Housing

Administration or FHA by:

- Eliminating the minimum down payment on FHA loans and allowing borrowers to choose how much they want to put down to increase the number of homeowners. That way, we can reach hardworking, creditworthy borrowers who do not currently qualify for prime financing.

- Increasing the FHA loan limits that will allow buyers of newly constructed homes to have access to FHA financing.

- Increasing the maximum loan from 30 years to 40 years. The longer loan term will decrease monthly payments yet build equity through a fully amortized loan.

The distribution of wealth that we see today is not an accident; rather, it is the result of the systemic discrimination of the past. The discriminatory laws and policies that barred African Americans from owning property and encouraged real estate agents and lenders to discriminate against minorities have had effects that have lasted until the present day.

As a result, it will likewise require purposeful action on the part of the federal government and housing and lending industries to increase access to housing and lending markets that were previously closed to minorities.

We at HUD are doing our part, we are using our authority to investigate banks we believe are involved in predatory or unfair practices. We are also working with other federal agencies to

preserve the authority of our Fair Housing Assistance Program partners to investigate the lending practices of national banks³.

Moreover, HUD is investing likewise in investigating insurance companies that have practices that violate the Fair Housing Act. Just today, in a Secretary-initiated case, HUD has issued a charge against a large well-known insurance carrier, Erie Insurance Group (Erie), for violating the Fair Housing Act due to racial discrimination in the provision of homeowner's insurance in New York State.

This determination represents the first charge of discrimination in a Secretary-initiated complaint. At the same time, HUD will also issue a charge against Erie in a complaint filed by the Fair Housing Council of Central New York (FHCCNY). Based on the complaint filed by FHCCNY, HUD began an investigation of FHCCNY's complaint. On December

³ A National bank is a financial institution chartered by the Office of the Comptroller of the Currency. National banks can usually be identified because they have the words "national" or "national association" in their titles or the letters, N.A. or NT&SA following their titles. National banks represent about 28% of all insured commercial banks in the U.S., holding about 57% of the total assets of the banking system.

22, 2005, after a review of convincing evidence suggesting Erie's practices might violate the Fair Housing Act, I filed my own complaint.

HUD investigations revealed that Erie violated the Fair Housing Act and continues to do so because: (1) it sells fewer homeowner policies in African-American communities in New York State; (2) it sells lesser-coverage homeowners policies to African –American homeowners in New York State, and (3) it has only one agent in an area of New York State with a significant African-American population.

It should be noted that in New York overall, HUD found that Erie has four times as many agents-per-100,000 persons in zip codes with the lowest African American population than in zip codes with the highest African-American share of the population.

Testing conducted by FHCCNY also showed that Erie agents offered inferior coverage on properties when the home was in an

area with significant black population compared to a similar home in a white area. Furthermore, during our investigation, Erie was unable to provide satisfactory justification for these differences in treatment. It is these types of actions that work to prevent minorities from looking for a home in certain sections of New York from obtaining a conventional mortgage.

The good thing about Secretary-initiated investigations is that it is a tool that can provide us with quick results. We don't have to wait 100-days or 180-days to get results.

And, since becoming Assistant Secretary a year ago, I have used this tool several times. And most recently, on October 2, I began a Secretary-initiated investigation into the actions of St. Bernard Parish regarding an ordinance it passed in September. I'm sure most of you in the advocacy community have heard about it. The ordinance prohibits owners of single-family homes from renting to anyone who is not a blood relative.

Supporters of the ordinance say that such a drastic measure is needed to preserve the parish's long history of owner-occupied housing and to protect the integrity of subdivisions where homeowners have chosen to return.

We believe their actions send the wrong message – or worse. If the ordinance has the effect of denying someone the opportunity to rent a home in St. Bernard Parish because of their race, national origin, or color, it will amount to a violation of the Fair Housing Act and we will take action.

As we reflect on the civil rights legacy that formed the basis of the work we do, let us use what we learn at this conference to become better equipped to help those who historically have not had a voice.

The fight for equality recognizes, as Dr. Martin Luther King, Jr., put it:

“We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly.”

In my capacity as the Assistant Secretary, I know that I will do everything I can to support HUD's efforts to enforce the federal Fair Housing Laws.

Please call on me if I (or anyone on my staff) can assist you in your efforts to promote fair housing policies or to end discriminatory practices, because I assure you, If I need your help, I will not hesitate to call on you.

Thank you for allowing me to speak to you. Enjoy the rest of your evening.