CFPB and DOJ Target Mortgage Lender for Alleged Discriminatory Redlining Practices

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On October 15, the CFPB and the DOJ announced a settlement against a large mortgage lender for its alleged discriminatory redlining practices against residents of majority-Black neighborhoods in the greater Birmingham, Alabama area in violation of the Fair Housing Act, the Equal Credit Opportunity Act, and Consumer Financial Protection Act. Redlining occurs when lenders discourage credit applications, deny equal access to home loans and other credit services in certain areas, or avoid providing home loans based on applicants' protected class status, such as the race, national origin, or color of the residents of those areas.

According to the complaint, the lender's "statements, acts, and practices directed at applicants and prospective applicants were discriminatory, including by discouraging applications for credit for properties located in majority-Black and high-Black areas in the Birmingham MSA." Specifically, the DOJ and CFPB complaint alleged that the lender's problematic practices included:

- Failing to Address Signs of Discrimination. The lender's HMDA data revealed that it received a disproportionately low number of mortgage loan applications in majority-Black neighborhoods, but until October 2022, the company took no significant action to mitigate the risk of redlining beyond instructing loan officers not to discriminate. According to the complaint, from 2018 to 2022, only 3.7% of the lender's loan applications were for properties in majority-Black areas, compared to 12.2% for its competitors. Despite these disparities, the lender did not create a formal plan to address the issue through marketing or growth efforts.
- No Retail Loan Offices in Minority Neighborhoods. Between 2015 and 2022, the lender operated its loan offices and production desks exclusively in majority-white areas of the Birmingham metropolitan region, failing to establish any offices in majority-Black neighborhoods.
- Discriminatory Marketing Practices. The lender focused most of its marketing efforts on majority white areas. According to the government, from 2018 to 2020, less than 3% of the lender's direct mail advertising was directed to consumers in majority-Black neighborhoods, despite these neighborhoods comprising 33% of Birmingham's Metropolitan Statistical Areas.

The lender also relied heavily on referrals from real estate professionals, most of whom were also based in majority-white areas.

If approved by the court, the settlement would require the mortgage lender to pay a $1.9 million civil penalty. In addition, the lender would be required to allocate $7 million towards a loan subsidy program aimed at providing affordable home purchase, refinance, and home improvement loans in majority-Black neighborhoods. The lender must also open or acquire a new retail or loan production office in a majority-Black neighborhood in Birmingham, and pay at least $500,000 for advertising and outreach, at least $250,000 on consumer financial education, and at least $250,000 on partnerships with community-based or governmental organizations to serve neighborhoods previously redlined.

Putting It Into Practice: The complaint alleges that, since 2017, the lender utilized a third-party vendor to assist in reviewing HMDA-reportable data to assess its redlining risk in majority-minority areas. Although the data revealed statistically significant disparities, which were reported to the Board of Directors, the lender failed to take any meaningful action to address these issues for five years. This inaction likely influenced the CFPB and DOJ's decision when assessing the penalty. This settlement also comes on the heels of another recent redlining settlement by the DOJ against a credit union. It suggests that the DOJ and CFPB may be eager to resolve pending fair lending investigations before the upcoming election, in the event of a potential change in administration in January.

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