

PETITION

BY: The American Friends Service Committee, Inc.; The Housing Association of Delaware Valley; The Housing Opportunities Council; The Leadership Council for Metropolitan Open Communities; Metropolitan Washington Planning and Housing Association, Inc.; National Association for the Advancement of Coloured People (Special Contribution Fund, Inc.); National Association of Real Estate Brokers; The National Committee Against Discrimination in Housing, Inc.; National Urban Coalition; National Urban League, Inc.; The Rural Housing Alliance; The Washington Center for Metropolitan Studies, The League of Women Voters of the United States

TO: Mr. Jack Carter
Secretary
Federal Home Loan Bank Board
101 Indiana Avenue, N.W.
Washington, D.C. 20552

Petitioners file this petition under 12 CFR 508.13 authorizing interested persons to seek issuance, amendment, or repeal of a regulation of the Board.

Petitioners urge the Board to invoke its rule making authority under 12 U.S.C. 1437 (1964) and 12 U.S.C. 1725 (1964), for the purpose of establishing a fair and effective system of preventing racial discrimination in home mortgage financing.

STATEMENT OF INTEREST:

The organizations noted above as petitioners represent a cross section of civil rights groups and public interest organizations with a specific interest in fair housing. Each group has a special concern about discrimination in the home financing area, and the need to eliminate such practices in fully implementing fair housing laws and in moving toward our national housing goals. A detailed statement of each organizations specific interest is attached as an appendix.

FACTS:

Petitioners allege that:

1. the housing conditions under which black citizens and members of other racial minorities live are far inferior to those available to white citizens.¹
2. a pattern of racial segregation in housing exists throughout the United States and the degree of segregation has been increasing in recent years.²

¹Report of the National Advisory Commission on Civil Disorders, 259-263 (GPO, 1968); Building the American City - Report of the National Commission on Urban Problems, 40, 197 (GPO, 1968).

²Note 1 above, see, Report of the President's Committee on Urban Housing--A Decent Home, 96 (GPO, 1969); The American Negro Reference Book, 390 (Prentice Hall, New Jersey, 1966).

3. the substandard and racially segregated conditions under which black citizens and members of other minorities live have been caused in large part by racially discriminatory practices of the housing industry, including practices of lending institutions regulated by the Federal Home Loan Bank Board.³

4. the racially discriminatory practices engaged in by regulated lending institutions have included the denial of housing credit in the form of mortgage loans to black citizens and members of other racial minorities solely because of their race; the application of different, more stringent, standards in considering applications for credit from black citizens; the refusal to extend credit to black citizens for the purchase of homes in residential areas occupied exclusively by white citizens; the refusal to extend credit to white citizens for the purchase of homes in residential areas in transition from white to black; the designation of certain residential areas, principally central city areas occupied largely by black citizens, as ineligible for mortgage credit.⁴

5. among the consequences of these discriminatory lending practices has been the imposition of arbitrary restraints upon the free flow of mortgage credit. Black people and members of other minorities subject to these restraints have been confined to segregated, deteriorated and overcrowded housing units for which they have often been required to pay disproportionately high rents and prices.⁵

³Editorial Research Reports on the Urban Environment, 100 (Congressional Quarterly, Inc., Washington, D.C., 1969). "Land Development and Racism in Fairfax County" 15 (Washington Suburban Institute, Fairfax, Virginia, 1970). See also 4, 1961 Commission on Civil Rights Report, Housing, 27-53; and Federal Civil Rights Enforcement Effort, Report of the U.S. Commission on Civil Rights, 1970, 507-520.

⁴Note 3 above. Further, restrictions placed upon the extension of housing credit may have a discriminatory impact upon black citizens and members of other minorities even when such restrictions are apparently fair on their face. There is reason to believe that restraints placed upon the extension of credit to low income families are not always required by the dictates of sound business and banking practices. See Report of the President's Committee on Urban Housing--A Decent Home 96 (GPO, 1969), 1961 Commission on Civil Rights Report, Housing 66 (GPO, 1961).

⁵1961 Commission Report, 29; 1970 Commission Report, p. 512-513.

- 3 -

6. despite laws prohibiting discrimination in housing, including discriminatory lending, such practices persist.⁶
7. the correction and prevention of discriminatory practices is impeded in large part because the Federal Home Loan Bank Board and other agencies which regulate lending institutions have failed or refused to require that the institutions they supervise maintain racial data on their lending practices and on the impact of their lending practices upon residential segregation.⁷
8. the continuation of discriminatory lending practices by regulated institutions constitutes an unsafe and unsound practice in the conduct of association business and is a violation of federal law.

OBLIGATIONS AND AUTHORITY OF THE BOARD:

The right of citizens not to be discriminated against in the acquisition of housing and the obligation of the Federal Home Loan Bank Board to protect citizens against racial discrimination by lending institutions arise under the Thirteenth Amendment and the equal protection clause of the Fourteenth Amendment to the Constitution of the United States.

The rights of black citizens and members of other racial minorities are further protected by the Civil Rights Act of 1866, 42 U.S.C. 1982, (1964), which provides that:

"All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof, to inherit, purchase, lease, sell, hold and convey real and personal property."

This statute "bars all racial discrimination, private as well as public in the sale or rental of property." Jones v. Alfred H. Mayer Co., 392 U.S. 409, 413 (1968).

The rights of citizens to be free from discrimination in the financing of housing are protected by the Civil Rights Act of 1968, 42 U.S.C. 3605. (Supp. IV, 1968). Explicit statutory language in 42 U.S.C. 3608(c) further amplifies the obligations of the Federal Home Loan Bank Board and other financial regulatory agencies as follows:

⁶See 1970 Commission Report, above, note 3, p. 520.

⁷1970 Commission Report, p. 518-520.

- 4 -

"All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purpose of this subchapter (fair housing) and shall cooperate with the Secretary to further such purpose." (Emphasis added). (See Shannon v. H.U.D., _____ F.2d _____, 39 U.S. L.W. 2373). (3rd Cir., 1970).

Further, the obligations of the Federal Home Loan Bank Board arise under the Housing Act of 1949, 42 U.S.C. 1441 (Supp. IV, 1967) which states as a national objective, "A decent home and a suitable living environment for every American family." The Act also provides that:

"Other departments or agencies of the Federal Government having powers, functions, or duties with respect to housing, shall exercise their powers, functions, and duties under this or any other law, consistently with the national housing policy declared by this Act and in such manner as will facilitate sustained progress in attaining the national housing objective hereby established, and in such manner as will encourage and assist...(4) the development of well-planned, integrated, residential neighborhoods...."

The goal was reaffirmed by Congress in 1968. 42 U.S.C. 1441a (Supp IV, 1968).

In the regulation of the activities of savings and loan institutions with respect to home mortgage financing, the Federal Home Loan Bank Board clearly has an obligation to secure the rights of citizens as guaranteed by the aforementioned Constitutional and statutory provisions, (an obligation that has not been fulfilled by the adoption of a resolution opposing discrimination). The obligation of the Board further arises under its duty to take enforcement action against associations which engage in unsafe or unsound practices or which violate laws, rules, regulations or orders. 12 U.S.C., 1464(d), 1730 (Supp. V, 1966) 12 CFR 523.32, 12 CFR 550.1, 12 CFR 566.1.

REMEDY REQUESTED:

Accordingly, petitioners request that the Federal Home Loan Bank Board issue a regulation expressly prohibiting discrimination on the basis of race, color, religion, or national origin, in the conduct of all association business; the discrimination prohibited shall include, (1) the denial of services, (2) the provision of services in a different manner and (3) otherwise offering services in a manner which excludes or discriminates against particular individuals on the basis of race, color, religion, or national origin, and making violations of said regulation subject to the sanctions provided in 12 U.S.C. 1464(d) and 1730 (Supp. V. 1966).

In implementation of this requirement of non-discrimination petitioners also request the Federal Home Loan Bank Board to issue regulations requiring that each regulated financial institution:

- a. keep on file a record of all loan applications, specifying the following:
 1. race, color or minority group identification of each applicant,
 2. date of the application,
 3. date of the decision with respect to the loan,
 4. if the application is disapproved, the reasons therefor,
 5. the character and location of the property, surrounding properties, and general neighborhood in which the property is located, including racial and economic characteristics of the area and such other information as the Board may determine is relevant.
- b. maintain a written log of oral inquiries about loans which are made in person, but do not result in a written application, such log to indicate the date upon which each inquiry was made, the nature of the inquiry; the name and address, and the race, color or minority group identification of the person making inquiry.
- c. publish and post a clear statement of the standards and criteria which the financial institution uses in reviewing and deciding on loan applications.
- d. take affirmative action to inform customers and potential customers of its non-discriminatory lending policies by means including but not limited to: prominently posting a notice in its lobby, and including in its brochures and other advertising material a statement that the institution does not discriminate in mortgage lending, that any such discrimination is in violation of Section 805 of the Civil Rights Act of 1968, and that if any applicant for a mortgage loan encounters such discrimination, a complaint may be filed by writing to the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue, N.W., Washington, D.C. 20552, stating the facts upon which the allegations of a discriminatory practice are based; advertising the availability of its thrift and home financing services in media (press, radio, t.v., etc.) with demonstrated impact on the minority market; establishing working relationships with brokers and other agents who serve members of minority groups.
- e. require that each builder or developer to whom a short-term construction, or long-term mortgage loan is made file with the lender a written assurance that the dwellings financed will be sold or leased without discrimination. This

- 6 -

assurance should also include a statement of the affirmative actions the builder or developer will undertake to inform minority group members of equal housing opportunities in the building; or buildings and developments he is constructing. Further, that each builder and developer, upon completion of the occupancy of the dwellings financed, file a statement with the lender indicating the total number of units purchased and occupied, and the total number of units purchased and occupied by members of minority groups.

f. designate an officer of such institution to exercise overall control, supervision, coordination and development of the non-discrimination policies and affirmative action programs of his institution and to assure that all personnel of the institution comply with these policies and programs.

To assure that the regulated financial institutions comply with the above regulations, petitioners further request that the Federal Home Loan Bank Board take the following steps:

a. develop the necessary procedures and forms for use in periodic reporting to determine whether the associations are complying with the Federal laws and the rules and regulations of the Board in this area.

b. develop a national data collection system covering all aspects of individual association, regional, and national mortgage lending practices. Such data would be used for comparative analysis of lending practices in the several regions for the purpose of assessing the impact of programs designed to insure compliance with the law.

Periodic reports should be compiled which will permit such comparative analysis, the reports to be made available to the public at cost. Examination of the data utilized in compiling the reports is to be permitted subject only to appropriate conditions necessary to protect the right to privacy.

c. undertake immediately to determine how current practices and procedures in granting or processing loans should be revised to eliminate impediments to the purchase of homes by members of minority groups, particularly persons of low and moderate income.

This determination shall include an investigation of whether the availability of credit to minority groups is being restricted by practices which are not discriminatory on their face but which may have a discriminatory impact, such investigation to include: restrictive eligibility standards, e.g. the refusal to

- 7 -

take into account a family's second income in determining ability to pay, the use of a criminal record as an absolute disqualification; restrictive real property appraisals, e.g. underappraisals of property in minority or racially mixed neighborhoods resulting in lower loan/market value ratios; or other restrictive practices, e.g. refusal to make loans available for subsidized housing designed to assist low and moderate income families.

A report shall be completed within 3 months and published, with recommendations and a statement of the steps that will be taken to implement them.

d. develop an in-service training program for officials of lending institutions directed toward informing them of their responsibilities under the Constitution and Laws of the United States, including Federal fair housing laws, and regulations issued by the Board, and toward improving their capacity to serve members of minority groups.

Petitioners request that the Board, because of the public importance of this petition, hold a hearing on the above requests for rule making.

William L. Taylor

Daniel A. Searing

Center for National Policy Review
620 Michigan Avenue N.E.
Washington, D.C. 20017

Counsel for Petitioners