DISTRICT OF COLUMBIA ADVISORY COMMITTEE

TO THE

U.S. COMMISSION ON CIVIL RIGHTS

RESIDENTIAL MORTGAGE LENDING DISPARITIES IN WASHINGTON, D.C.

624 9th Street
Washington, D.C.

August 6, 1998

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P R O C E E D I N G S

MR. SIMS: Good morning, I am Steven Sims and I am the chairman of the District of Columbia Advisory Committee for the U.S. Commission on Civil Rights. On behalf of the Advisory Committee, whom you will meet in a moment and commission staff, I thank you for your interest and attendance at today's press conference and hearing on residential mortgage lending disparities in the District of Columbia.

A quick announcement for those of you that might not be aware, we do have materials in the back on the table, including my opening remarks for your review and use.

Our 1996 report on the disproportionately smaller share of loans and loan amounts for minority applicants versus non-minority applicants is of critical concern to the citizens of the District of Columbia and their fundamental understanding of equal opportunity and the concept of civil rights.

Were loan denials a matter of too many unqualified people soliciting loans or a lending system at that time, afraid to provide credit to minority borrowers? A further concern raised by the data and experts we talked to, noted a possible link between numbers of loans denied minority applicants and the specific track wards where those borrowers wanted to buy.

This questions the marketing application and underwriting criteria used by mortgage lenders in the District of Columbia. We want to spend time this morning talking about where residential mortgage lending is, what direction it's headed, and as we strive to ensure all our citizens, regardless of race or ethnicity, the chance to claim the American dream.

What I'd like to do is start by making several major introductions, first introducing those of you that might not be aware, what is the D.C. Advisory Committee and its relationship to the U.S. Commission on Civil Rights?

The U.S. Commission on Civil Rights is a fact-finding agency within the executive branch of government. The Commission has established advisory committees in each state and the District of Columbia, with members appointed by the commissioners and those of us up here serve without compensation.

Our function is to receive reports, suggestions and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the advisory committee and to use this information to initiate and forward advice and recommendations to the Commission on Civil Rights matters occurring in our jurisdiction.

The report we are releasing today has been received by the commissioners, who unanimously accepted our report for publication. I'd like to also now go around the table and have my colleagues introduce themselves. We can start on my right with John.

MR. TOPPING: My name is John Topping. I've been a member of this site for a number of years.

MR. MCKETHAN: My name is Donnie McKethan, and I too have been a member of the committee, I guess, four years.

MS. HEUER: My name is Ann Heuer and I've been a member for five years, and was here at the time that we did this report.

MS. JONES: Good morning, my name is Lisa Jones, and I've just been a member for the last year. I reside here in the District in Southeast Washington.

MS. KRUVANT: My name is Charito Kruvant and I've been a member of the commission for the last six years, and I had the opportunity to be the chair while everything was ongoing.

MS. BROWN: Rachelle Brown, this is my first term.

MS. WILDY: Jody Wildy, this is my second term.

MR. SIMS: Let me note at this point of the hearings, data collection analysis and the report itself were completed under the outstanding leadership of my predecessor, Ms. Charito Kruvant.

As a member of her committee and her success in the chairperson seat, I want to acknowledge Charito's skills as an organizer, facilitator, spokesperson and leader. Those skills really made this report possible. I'd also like to make clear that even our advisory board fell prey to the government bureaucracy of hurry up and wait, which is responsible for the lengthy time between this document's completion and its release here today.

It's also important that I

acknowledge those former advisory committee members, who were intimately involved in this lending disparity report, but are no longer on the committee, Mari Carmen Aponte, Laura Chin, Yetta Galiber, Jose Guttierez, Rita DiMartino, Clifton Smith, Malcolm Stubblefield and Jeffrey Weintraub.

Finally, I want to strongly and enthusiastically acknowledge the staff of the commission for their support, guidance and assistance in the research, development, writing and publishing of this report. My particular thanks to John Binckley, Edward Darden, Ki-Taek Chun and especially Marc Pentino for their energetic and passionate commitment to protecting the civil rights of all the citizens of the District of Columbia.

Let us now get to the business at hand: The past and present patterns of residential mortgage lending disparities in the nation's capital. As background, our project began in 1993, after the committee observed disparities in lending rates to minority communities throughout the District.

In the summer of 1993, various articles in The Washington Post alleged a pattern of disparate lending to minorities, which it tracked by specific wards. In 1994, the committee held a fact-finding meeting with experts in the fair lending field and government officials, to get a sense of what was happening in the District. At our forum, various community advocacy groups offered their analysis of lending patterns in the District.

Throughout the next two years, as the committee prepared its report, it gathered follow-up information, solicited input on the report from lending institutions, government agencies, and community organizations, and monitored additional reports on disparate lending. When the report was completed, it was presented to the commissioners, who approved its release and publication.

Let me say up front before I ask Charito to share a summary of the report's primary findings and recommendations, that while the committee is aware of many changes in the mortgage lending arena, which reflect movement toward providing equal access and opportunity to purchase a home in the District, our findings were valid and some of our recommendations are still necessary.

Following Charito's statement, I would like to move immediately into the panel discussions, which will provide us a chance to learn about developments since our fact-finding meeting, in the area of fair lending enforcement, industry efforts to improve lending to minority communities, and other new issue areas.

We do plan on, one, providing a Q and A period following the panel presentations, so that the press and the audience, as well as other advisory committee members can raise any concerns, questions or issues they might have. But we do plan on providing the commissioners with an addendum to our report, with the information we gather today. With that, let me turn it over to Charito for her statement.

MS. CHARITO: Thank you for the opportunity to spend some time with the committee members, and at the same time be able to share some of the findings and recommendations of the report.

Before I do so, I thought it would be worthwhile for me to both express my appreciation to the staff that supported us and also to take a minute or so to remind how extraordinarily both interesting and complex it is to do the work of civil rights issues within the District of Columbia.

When we think about issues of minority and we think also about issues of the District Columbia, our framework of reference has to change because we, minorities in the District, are not minorities in the District. So I think it's about time that we update our language and our terminology. It's important that we look at it from a different perspective.

It has also, during the period in which I was chair, became critical to me to understand both how complex the federal regulations and the agencies are in supporting civil rights issues, and how unsupported the staff of the commission for civil rights is to be able to tackle such complex issues and some complex documents.

So not only my thanks to the staff, my admiration to all of you for continuing to do these complex tasks. Most of our research during the process was both secondary research. It was also the kind of process that we knew much needed to be done and we needed to rely, not only on volunteers, but on a very, very limited amount of staff that the commission has.

So if you find certain flaws in the staff, yes, it's because of process and it's because of the complexity of the subject matter that it will require to be fair to the issue. It will require a much appreciated staffing pattern to be able to do these tasks.

So to the ones that were in the past, supporting these, particularly to Mr. Betino, thank you for not giving up. I think issues like this -- once in a while, we need to take the time and to say -- and also to my colleagues, this was not an easy task because the answers did not come as clear as on a black and white, but the issues of civil rights right now are quite gray in our area.

Some of it is connected to legalities, but much of it is connected to attitudes. So we spent many hours, not only learning of the facts, but also trying to provide a new frame of reference under which some of these issues need to be looked at.

Many, many times we did not agree. So in some instances we agreed to not agree.

As it was mentioned before, these tasks started in 1993. Now we are in 1998. So one, also of great importance, is to know while we finally do have a printed report, I think it's important to notice that it might be no longer dated document. Much of the information is no longer crucial because both the economy in the country has changed quite drastically. The rules and regulations have changed quite drastically.

Also the competition within both the banking community and other lenders has changed. So the picture under which we prepared this document, and the picture of today, I think, has changed quite drastically. As you maybe hear some of these findings and some of these recommendations, it will be important to note that much of these needs to be constantly updated.

What has not, I think, changed too

drastically is quite frequently our attitude about learning and about educating ourselves. I think much of that still needs to be done. So let me now share with you a couple of findings that we did come up in the report.

My assumption is that most of you have hard copies and if you are interested, you will be able to not only read the document, but we are available to discuss thoroughly each one of that. But as it is right now, what we did find in the reports, the finding number one, that there are disparities in loans to minorities and non-minorities in D.C. However, these are not conclusive evidence of discrimination.

What we were looking at were patterns of discrimination, consistent practices and systemic practices. What we did here about anecdotal information and specific cases, we looked at the evidence of patterns or systemic issues and we could not really demonstrate that there is.

So we wish we could come up with one of those big, lambasting things that will bring us to the news today, but we did not find. I think we owe it to ourselves and to the public to say that. But there are some recommendations that I think are quite valid.

One, the federal and the District government should collect and analyze data needed to address whether discrimination exists and who, if anyone, is doing it. We're not saying that it's not there. What we are saying is we did not find the patterns that either the press or the other information indicated.

The recommendation number two, lenders should reveal their operations and assure themselves that they're not discriminating and making corrections if needed. We do believe that it's crucial to the institutions that are providing the services of lending and that they're in the business of learning, they have to have an infrastructure and internal procedures and processes under which they're consistently monitoring.

I think part of the great success of the next step is probably relying on it in that way. Because if we're going to rely on the federal government or public agencies to be doing the monitoring, we note that it's taken from 1994 to 1998 to publish 26 pages of the document.

Recommendation three, under finding one, lenders should publicize their availability of loans to all communities as well as their efforts to promote their lending. That's something that we did find a tremendous lacking. There was not really easily available information which the public could easily understand.

We do know the rules and regulations could be complex and at some point, cumbersome, but the individual that's both attempting to borrow money needs to understand it in their way, in a simple manner. We believe that the banking community was not at that stage, doing that efficiently or effectively.

Finding number two, D.C. regulatory agencies currently play only a minor role in fair lending. I think since 1993 to today, the District of Columbia has gone through a major metamorphosis and we do see a change, very positive change in which the city is attempting to govern the city, but there's still quite a lot to be done.

We, for as much as did some changes recently, still believed that they're not really organized and they're not supported in a fair way, issues of fair lending. Recommendation number one of that finding, that the District should increase the oversightability of the regulatory agencies in this area.

It sounded to us or it looked to us, not only much needed to be done, but some of the basic internal framework and infrastructure to be able to do that, needs to be thought through. Not only the staffing issues need to be looked at, but just how and who and when needs to be organized.

It seemed to us that there was good attitude. There was good intention, but it just wasn't there in the way that the citizens deserved to be served.

In the finding number three, the recommendation that indeed both the banking community and the community at large should organize itself to be able to coordinate or partner, so that the information can go way beyond the banking establishment to the local level. There were a couple of specific organizations that we found that were very helpful in providing that support.

Finding number four, government efforts to detect discrimination are not adequate. From our seat, that probably was the saddest thing to know, that we could see that the press could write up.

In 1994 they did so, a series of documents that were touching and I think they brought up a reality that was occurring at another level. It was very specific.

On the other hand, we really were able to notice that the government, both the federal government and the other agencies are not really organized and they're not providing systemic efforts to detect discrimination. So if we're serious about it, I think it's important that much of that needs to be done in an organized fashion from the federal government and the District level.

The recommendation number one, coordination between federal and D.C. agencies and private groups should increase and their roles better defined. Recommendation number two and finding number four, all fair lending agencies should report periodically to the public on their activities.

I think for us to be able to clearly get to the next step, not only do we need to know what's going on, but we really need to inform ourselves on what do we do and how do we it? We do believe that there are certainly very good best practices that some of the banking institutions are providing it. Some of them are part of very well kept secrets.

I think those efforts need to be publicized and we also do note that some practices are occurring that need to be known so that others learned to train their stuff, particularly the banking community. If they're fair to their employees, they need to train them.

I think much of the discrimination that is occurring, is both out of ignorance and out of systemic approach on the training on both training of their own employees and training to the public. So that we're all aware on that process.

That's pretty much the summary of both my findings and recommendations. What's more, this is the kind of a process that might not bring us to the first line on the post, but I do think it's important that we did it in a systemic way and an organized fashion. Thank you again to the staff and to the group.

MR. SIMS: Thank you. We had planned on having a Q and A period here, but again because we want to be fair to all sides and we want to both be able to talk about where we are today and allow an update in terms of changes in the industry.

We've put together a couple of panels, one, representing some of those groups that monitor issues of fair housing in the District, and then also get an industry perspective from some of the lending institutions and representatives. If I could ask the first panel, David Berenbaum and

Joshua Silver to come up.

While they're coming, let me quickly mention that Jay Anthony Romero, who is the superintendent of the D.C. Office of Finance and Banking Institutions, is with us. If you could stand? Charles Lowery, general counsel to that agency are here. So that if there are any questions that you would like to raise at some point also with some of the monitoring and enforcement, we do have representatives from the D.C. government here and you're certainly welcome.

Let me turn to the panel. The title of this panel is Statistical Analysis of the Home Mortgage Lending. We've asked David Berenbaum, the Executive Director of the Fair Housing Council of Greater Washington to give us an update in terms of where the industry is and how it is performing, and followed by Joshua Silver, Vice President of Research for the National Community Reinvestment Coalition.

I'd like to hold off questions until both panelists have presented, and then I will open it up to the floor for questions or comments, both from committee members as well as press and other invited guests. David?

MR. BERENBAUM: Thank you, Mr. Sims, members of the commission, as well as guests in the audience. The Fair Housing Council of Greater Washington is a not-for-profit fair housing organization, serving not only the District of Columbia, but the entire Mid-Atlantic region.

We have a host of very sophisticated private enforcement, education and outreach, voluntary compliance, and most recently planning activities that we had been conducting in cooperation with the entire community.

I mean community as policymakers, industry leaders, as well as grassroots civil rights organizations and groups dedicated to expanded equal housing opportunity and home ownership opportunities, not only in the District, but in our nation.

I have been the Executive Director of the Fair Housing Council for the past three and half years. For your information, prior to that, I served as Executive Director of Long Island Housing Services, another civil rights organization for eight years. I am currently second Vice President of the National Fair Housing Alliance, who is committed to the realization of fair lending across the nation, through our 70 members.

The Fair Housing Council, three and a half years ago, began a re-engineering of how we do business. We made a very simple theory, a philosophy of how we do business in the community. The philosophy was that many of the issues that we're dealing with today go beyond a simple report, go beyond a jurisdiction's boundaries.

In fact, to look at lending, one

must also look at sales practices in the community, at insurance practices in the community, look at models that are successful, and yes, look at what's failing in an objective and realistic way so that we, as policymakers, you as a civil rights commission, can move ahead.

Three years ago, the United States Department of Housing and Urban Development began, through its consolidated planning process, a process called the Fair Housing Planning requirement. Every entitlement community, which receives federal support, including the District of Columbia, is required to produce a document called, The Fair Housing Planning Analysis of Impediments.

The report's goals, frankly, are very similar to what the Commission was trying to accomplish and has accomplished by calling attention to the lending issue in the report being discussed today. HUD mandated that communities must objectively, fairly, inclusively work to examine the extent of the housing discrimination problem in our area.

That jurisdictions over the next 5 years must develop Fair Housing Plans reasonably taking steps to overcome the impediments to Fair Housing choice that are documented in the community. The Fair Housing Council approached the Metropolitan Council of Governments in the Washington D.C. area and we suggested a regional approach to this fair housing planning process. What developed, in fact, after that over a two year period, has become a national model.

One of the issues that we addressed was fair lending practices and lending discrimination. This report was released approximately a year and a half ago, and it involves both a regional planning document, as well as a local document specific to the Washington, D.C. community.

One of the issues that was

discussed was, frankly, the limitations of Home Mortgage Disclosure Act data. Across the nation, there has been debate as to the meaning upon the data. Is it a true way of monitoring performance with regard to compliance and fair lending issues?

Certainly, as I said, it is an indicator of disparities in our mortgage marketplace. If you look at upon the data, not only from the period that was examined in the reports included in your document, but also since then, the disparities continue east of 16th Street. But who is injured by this? In fact, the entire District of Columbia community.

Every act of discrimination has an economic impact on the District and frankly, every jurisdiction around the nation. We as a community cannot tolerate these acts of discrimination.

We were asked by municipal leaders, by lenders and others, to assess the extent of the problem of lending discrimination, but also to look at other areas, a total approach to fair housing, to do statistically relevant audits, fair housing audits, using the process of match-pair testing, and in partnership with industry and in partnership with government, release the results.

So the results that have been done in the past that prove controversial, the results of the Fair Housing Index Project, as this effort became known, became, in fact, building coalition, building bridges. That is actually affirmatively furthering fair housing today.

I say you cannot look at lending issues without looking at related housing issues because, in fact, as everyone in the real estate industry knows, the industry is folding in on itself. Today, there are national mega-corporations that are promoting one stop shopping. You go to your real estate office or you go on to the Internet.

Not only can you look for your home and purchase your home, but also you can get your engineers' report. You can get your insurance product. You can get all of your shopping done by simply dealing with one location. That is a major change in our marketplace. It requires that we look across all issues. The Fair Housing Index project did that.

We looked first at rental practices. That report was celebrated and used on Capitol Hill as a national model of how to build consensus. We found in the District of Columbia, looking at race and national origin, we did an audit looking at the Latino community in particular, 28 percent of the time, our protected testers encountered disparate treatment in their search for an apartment.

But then we moved on and we looked and released a report in June of last year, looking at sales practices. In fact, a statistically relevant report looking at discrimination in the real estate industry, realtors, licensees and others have never been done before in this area; 100 match-pair tests were conducted.

While we found overwhelmingly there was compliance in our marketplace with fair housing laws, we reported the unfortunate fact that 28 percent of the time, discrimination was taking place on the basis of race and national origin.

The most frequent form of discrimination is directly relevant to what we are discussing here today. That African American and Latino testers, when they approached real estate offices to purchase a home, more frequently were asked, have you been prequalified for a mortgage, or how is your credit?

Then told that the real estate professional could not take them out to see housing until they produced a credit report or were prequalified either by a broker in house, or through mortgage professional or institution or profession out of house.

This, in fact, was shocking because the comparison, white tester, was not told that same information. They were immediately shown housing again and again, and told, we'll work with you to qualify for that mortgage product.

We then looked at disability issues and we looked also at familial status issues in our report. Then this year, for the first time in the nation, we released the Fair Lending Index.

There has yet to be a consensus on fair lending, marketing and fair lending testing methodologies, but frankly we're more in agreement than disagreement. The remaining issues, at the very least represent, where we disagree, poor marketing practices, even if we won't call them discrimination.

We looked at our three jurisdictions because we only looked at regional lenders in our area. There were over 45 at the time that we began the lending index study. All of our studies, all of our testers were upper middle income testers.

We did not want to confuse the issue of poverty and race in our nation, which is a very real fair housing and civil rights issue, but we wanted to make the point that was not the issue with what was going in the index project. There was only one issue, race or national origin, that we were controlling for.

We sent out 150 match-pair testers throughout our region. In fact, the results were quite striking. 41 percent of the time, we encountered either overt or subtle forms of discrimination.

I agree, as what was said earlier today, the majority of the time, we were simply encountering practices that were either so sloppy or there was a failure, in fact, to monitor practices within a particular mortgage corporation or entity.

That, in fact, they rised to the level of fair lending discrimination. But there were many subtleties in the report as well, overt acts of discrimination.

For example, when our Latino testers were calling within the District of Columbia, almost 100 percent of the time, they were asked about their credit before they even were able to make an appointment, but our white comparison testers, over the phone, had no difficulty whatsoever in fact gaining an appointment and accessing mortgage information. Now that did not happen all of the time, but it was a very strong finding in the District of Columbia.

As well, we noted that with regard to our African American testers, there was a propensity to recommend FHA mortgage products. Now the FHA mortgage product is a wonderful loan product.

It does expanded housing opportunities across this nation, when other GSAs, such as Fannie Mae and Freddie Mac have not been doing enough to provide similar products that, in fact, our minority communities and neighbors can access. So I am not criticizing FHA, but I am criticizing the mortgage representatives who are using the product, *vis a vis*, to create steering in our nation.

The Home Mortgage Disclosure Act data in this area conclusively shows that regardless of income, African Americans are more likely to be steered to FHA mortgage products. I have no problem if it's the right product for someone. I do have a problem if the same choice is not offered to all people based on their individual qualifications.

In the District of Columbia, we also have other issues. Obviously, the issue service and equal treatments. We have begun partnerships with a number of lenders, and we're negotiating with more. It's a self test.

This is a major, major development in this community. It serves as a model for the nation. It's called our fair housing partnership program.

It represents the corporate commitment, the redefining of philosophy to say, not only will it reduce risk, but if we are going to survive into the next century, by 2010, when everyone says the demographics will change in our nation, and they will, we had better re-engineer right now to make sure we're ready to do business with our future customers and consumers.

In fact, that simple philosophy is winning. Over CEOs in both the real estate industry, as well as the lending industry, to take a total approach to fair housing compliance.

The Fair Housing Council recently filed a complaint, which I think is one of the most significant fair housing lawsuits filed in the nation. We filed a fair housing lawsuit against CAP Cities Mortgage Corporation. The Washington Lawyer's Committee for Civil Rights is representing us, with also a pro bono law firm.

This is the very first law suit in the nation arguing reverse redlining. Not saying that they are trying not to do business in a community, but in fact, they are targeting. You've all known the language predatory in lending. That's what this case is all about.

It's not like me to read when I speak publicly, but it's also unusual to have such striking language in the first paragraph of a fair housing complaint. The complainants in this case come from the District of Columbia and also the urban core of Prince George's County.

We looked at where, in fact, CAP Cities is exclusively doing business. It is racially and economically impacted areas of our community. Here we go.

"This complaint arises out of a pattern or practice of predatory and racially discriminatory lending by defendants in the Washington D.C. metropolitan area. While they masquerade as bankers, defendants systematically defraud innocent individuals out of their money and property.

They accomplish their illicit purposes by means of fraudulent loans obtained through unscrupulous methods. Using these loans, defendants extract unconscionable and illegal fees from their victims, until there is no money left to extract. They then expropriate their victims' business properties, churches and homes before closures, which the loans were specifically designed to facilitate."

This complaint is available from my

office and I can leave this as an exhibit today.

The Fair Housing Council, in cooperation with the District of Columbia Office of Housing and Intergovernmental Affairs has begun testing in the District of Columbia. We are looking at discrimination through testing in race and also various national origin groups. We're looking at rental.

We're looking at sales, and I have no problem to publicly state that we are looking at predatory lending. It's particularly in northeast and southeast Washington, D.C. The recommendations included in the District of Columbia analysis of impediments document are very similar to that included in your document released today.

The future is a great opportunity, because I have seen such sensitivity by a majority of the large volume in mortgage companies, as well as banks, to do the right thing, to work hand in hand, to move beyond us and them, to say, how can we best serve the community?

I'd like to conclude with a brief statement about the problem of mortgage insurance, homeowner's insurance in particular in our community. The Fair Housing Council recently has filed three complaints to the United States Department of Housing and Urban Developments.

One of the companies involved will not even insure homes in the District of Columbia that are less than a quarter of a million dollars in value. Where are they insuring in the District of Columbia with that policy? Other companies have had policies in the past, many of them have begun to change them, looking at the age of housing or construction of housing.

Age of housing is not a valid underwriting issue. You cannot have arbitrary standards. For example, we will not insure homes that are more than 30 years of age because what does that do to our urban communities around the nation?

To their credit, after complaints were filed against Allstate and State Farm and also with regard to Nationwide Insurance, those companies have abandoned that discriminatory policy.

Other policies have to do with rating territories, and a belief that higher risks exist in certain communities. Sometimes that is not a corporate policy in underwriting, but it is a practice exhibited by front line professionals, who may be independent brokers, whether they are the real estate industry, blending or insurance.

We are coming to a new point in time where there will be new and expanded responsibility and/or liability for wholesale operations. So parent corporations, such as Erie Insurance, who abandoned the District of

Columbia because of regulatory red tape, yet they will insure for other areas. Then housing can no longer be tolerated. These complaints are pending.

The most serious threat, I think, to the wonderful, positive efforts that are taking place by lenders to expand home ownership opportunities today in the District, as well as by the many of the community groups that are working hand in hand with the lenders to do direct counseling, for example, is the fact where lenders, 5, 6 years ago, in a short period of time, began secondary review processes under regulatory pressure as well as with the desire to ensure compliance.

Today, where alternative means other than credit has been developed to qualify homeowners for mortgage products, the insurance industry as a whole is moving to credit as a factor for qualifying for homeowner's insurance. I say to you that is ludicrous.

If you look at insurance underwriting today, if you make two claims within a reasonable period of time, you're going to be cancelled. If you have a claims history, you are going to be cancelled. The argument being made is, if you have a poor credit history, you are more likely to make a claim.

This is no different, the disparate impact that was created by lenders, using credit, 6, 8 short years ago, than what the insurance industry is doing today. We as fair housing advocates around the nation are speaking out on this issue. We will be filing complaints on this issue. We are making friends among the realtors and I believe the lenders, to address this issue proactively. Thank you.

MR. SIMS: Joshua?

MR. SILVER: Yes, good morning. Thank you for giving me the opportunity to testify before you today. My name is Josh Silver. I'm the Vice President of Research at the National Community Reinvestment Coalition. NCRC is a CRA trade association of 680 community reinvestment organizations from around the country.

Our members include community development corporations, civil rights groups, and other neighborhood organizations, whose tasks day in and day out is to revitalize inner city and rural communities.

I was asked to present the findings of a report that we did with HMDA data from 1994 through 1996. The report is called, Who's Financing the American Dream? We took a look at lending patterns in the 20 largest metropolitan areas in the country. I hope you all have copies of the report, because I'd like to refer to tables during this presentation. Who's financing the American dream?

We decided to focus on home

purchase loans, specifically, both conventional and government insured, rather than looking at all single family lending, which would include not only home purchase, but home improvement and refinance.

Obviously, very importantly, home ownership helps revitalize neighborhoods, gives people a stake in their communities, increases property tax revenues as home purchases and housing rehabilitation occurs in the neighborhood.

So that's why we focused on home purchase lending in the report. We took a look at six different indicators. The percentage of marketing practices, which could be measured by the percentage of applications received by blacks and Hispanics.

We focused on blacks and Hispanics in this study. How many applications a lender receives from blacks and Hispanics is a proxy for marketing because if blacks and

Hispanics are applying to a lender, obviously they've heard about the lender somehow, through radio or through some other media, or through word of mouth or some other form of marketing practice.

We also took a look at the percentage of loans going to blacks and Hispanics than the percentage of marketing practices to low and moderate income borrowers, the percentage of applications that low and moderate income borrowers submit to a bank, the percentage of loans going to low and moderate income borrowers.

Then, last but not least, we had professor at the University of Minnesota compute, he calls it a discrimination ratio. He uses HMDA data and census statistics to determine if similarly qualified minorities that have the same qualifications as whites are being disproportionately rejected for loans from a particular institution?

Before I jump into how, kind of the

individuals lenders fell out, that was just a broad description of the methodology that we used in our report. I'd like to draw your attention to this table it's, Home Purchase Loans to Minorities.

You'll see on the left most column, the 20 largest metropolitan areas in the country. Metropolitan area, that includes both the city and the suburb. So for Washington, D.C., we're talking about the District of Columbia and then Montgomery, P.G. County and Maryland and Arlington and Alexandria and other jurisdictions in Virginia.

What you'll see on percent minority, on that column, which is right next to the metropolitan areas, percent minority is actually the percentage of blacks and Hispanics that reside in each of the jurisdictions, and then percentage of loans in 1996, where the percentage of loans that were offered to blacks and Hispanics in 1996, and so on for 1995 and 1994.

Let's look at Riverside, San Bernandino on the top; 25 percent of blacks and Hispanics live in that metropolitan area. Incredibly, they receive 42 percent of all home purchase loans in that metropolitan area in 1996.

So if you go a little further across the row, and you see the column 1996 difference, in other words, the percentage of loans that were offered to blacks and Hispanics by lenders in that area, was 17.1 percentage points higher than in percentage of blacks and Hispanics that lived in that metropolitan area.

Orange County, you'll notice the first four or five jurisdictions are California jurisdictions. I sorted this table based on the difference between the percentage of loans minus the percentage of people that were minority in that area.

So in other words, Orange County,

where it says 1996 difference, 5.7 percentage points more loans than there were minority residents. In other words, 23 percent of the loans in 1996 were to minority residents, and 17 percent of the population were minority in Orange County. You can see it's the same trend for 1995 and 1994 for Orange County.

Then you go down the list and you see Washington, D.C. as number ten. Actually, in kind of an absolute sense, D.C. is not doing terribly, but in a relative sense, it could be doing better because you'll see the non-metropolitan areas ahead of D.C. Some of the metropolitan areas don't have a high percentage of minority populations, but others do, like Los Angeles, Long Beach, for example.

Washington, D.C., 30 percent of the residents in D.C. are black and Hispanic. Our lenders offered 29 percent of home purchase loans to minorities in 1996, 31 percent in 1995, and 27.87 percent in 1994.

In 1996, there was just about 1 percentage point fewer loans than the percentage of minority residents in the city. It was kind of similar for 1995 and 1994. So it's kind of a double story in D.C., kind of in an absolute sense, there's progress, but relative to some other metropolitan areas, there's room for improvement.

Then you look at the bottom of the page, and you'll see average for the 20 MSAs, and then for United States as a whole, there's 22 percent of the population in all the 20 MSAs were black and Hispanic. They got 21 percent of the loans in 1996 on average.

United States, 17 percent of population is black and Hispanic, and they received 14 percent of the loans in 1996. That's kind of interesting, kind of in rural areas and small towns, probably there's not as much success in reaching minorities as there are in the bigger cities. Perhaps the lenders are not as experienced in serving that market in rural areas and smaller towns.

Then you go into Table 2, and I do the same story for low and moderate income households. What's interesting is Washington, D.C. performs well on a relative and an absolute sense on this table. You'll see it's number two, right below Minneapolis, St. Paul. 37 percent of the population is low and moderate income in Washington, D.C.

In low and moderate households/families, we see 41 percent of all home purchase loans. In other words, 3.76 percentage points more loans than the percentage of minority residents, blacks and Hispanics in the city. You'll see for 1995 and 1994, 36.1 and 36.3.

Does that mean that we should rest easy? No, because this is home purchase lending. We should also take a look at home improvement lending and refinance lending.

We should also take a look at the geographic distribution of home purchase loans.

This study focuses on lending to individuals throughout the metropolitan area and not so much lending in different neighborhoods. So we recommend additional studies looking at, as you did a few years ago, in lending and the different wards.

What's interesting in lending to income is on average, it's harder for lenders to reach low and moderate income households in proportion to their population. You'll see at the bottom of the page, on average 41 percent of the people in any given MSA, are low and moderate income, and 1996, they received about 36 percent of the loans, and a similar percentage of loans in 1995 and 1994.

So in other words, 10 percentage points fewer loans than there are low and moderate income households in any given MSA. It many areas, such as New York or some of the California communities, you have high cost of housing.

You have an affordability issue, but still, affordable home mortgage products should be developed so as to try to increase the percentage of loans going to low and moderate income households.

For the United States as a whole, that last row on the page, it's kind of interesting that again, it's about 40 percent of the people in the country are low and moderate income. They received 42 percent of the loans in 1996. It's sort of the reverse of the 20 largest metropolitan areas. Again, it probably is due to lower housing costs in rural areas and smaller towns.

Table 3, which I'll just quickly go through, is the denial ratios. That means how many more times are blacks and Hispanics denied for loans than for whites? You'll see D.C. is probably eighth on the list.

In 1996, minorities were denied 1.73 times as often as whites. Happily, that's been going down.

There's 2.57 in 1994, 2.02 in '95, 1.73 in '96, but should we rest easy? No, because still minorities are being denied 1.73 times as often as whites. We do have metropolitan areas that have lower denial ratios.

Let me jump to how the lenders fell out in the District of Columbia. On pages 37 and 38 of the report, on page 37, it starts with the best lenders or the lenders that offer the highest percentage of loans to minorities and low and moderate income households, and then do the most marketing. We see the most applications from underserved populations.

Then to the lenders that are lowest on the table. You'll see that Riggs Banks is number one in the study. Russell Simmons will probably be happy about that. You'll see that Riggs took in, but for good reason, 71 percent of its applications were for blacks and Hispanics.

Remember, if 30 percent of the population in the entire metropolitan area are minorities. So Riggs is taking more than twice that, then offered 71 percent of their loans to blacks and Hispanics.

Again, for low and moderate income, 73 percent of their applications were from low and moderate income households; 73 percent of their approvals were to low and moderate income households. Low and moderate income households, as I said before, were about 37 percent of the population of the District of Columbia.

You'll see this DSC ratio. That was developed by professor Sam Myers at the University of Minnesota. A negative number means good news. It means, basically an absence of discriminatory practices. If it's above 1, it's a little worrisome.

What the quintile means, say the quintile next to the minority applications, quintile 5, that means it was the top quintile. That score for Riggs Bank on the minority approvals was in the top quintile of the lenders in our report.

You know you sort lenders into 5 different categories for the same number of lenders in each categories on each of the indicators. So 5 means a top quintile. So you have 6 indicators. You'll see that Riggs got a score of 30, which means that they scored in the fifth quintile. They got a score of 5 in each of the 6 indicators.

In 1995, they also had a score of 30. Interestingly enough, they did have to improve from '94 to '95. I believe the history was, is that in previous years there was a low CRA rating for Riggs Banks. Riggs did the work, and they improved their lending performance. That's what CRA fair lending laws are all about.

Riggs is a case study on how CRA and fair lending laws provide an incentive for lenders to serve people who have been traditionally underserved by financial institutions in the United States.

Then you can kind of see a little further down the page, your lenders, say percentage of loans being offered to minorities. Virginia First Savings Bank, 20 percent of their loans are going to minorities as opposed to a member. Then 70 percent of the loans going to Virginia First Savings Bank is like sixth from the bottom.

So you can see that there is a great difference in performance amongst the lenders in Washington, D.C. Further analysis and study should figure out why. It could have to do with their branch distribution network.

Actually, NCRC has the capability of putting nice maps where the branches are of the lenders. If the branches are in predominantly white areas, in the suburbs, you're not going to have a whole lot of loans going to minorities or low and moderate income people. If the branches are more evenly distributed throughout a metropolitan area, you will see performances like Riggs.

You also have to look at affordable mortgage products. Do the lenders offer affordable mortgage products with waiving some fees on a loan or a below market interest rate? One thing I'll brag about NCRC members here is, we have 680 members who work out partnerships with lenders to do affordable mortgage programs, that say, offer a one percent below the market rate in return for people going through home ownership counseling.

Marcia Griffin will be talking to you later about home ownership counseling efforts. But these types of programs get people ready to purchase their American dream, and the extent to which lenders have affordable mortgage products, you'll see some of that reflected in the performance of the lenders, on these charts.

I should also say that since 1977, community reinvestment organizations have negotiated over $1 trillion dollars, I'll repeat that figure, $1 trillion dollars in CRA agreements with lenders. These agreements commit lenders to offer loans and investments to low and moderate income areas and minority communities over a multi-year period.

Often this occurs during the merger application time. That's when CRA is enforced. It's one of the times that CRA is enforced.

A lender has to demonstrate to a federal regulator that it has a good community reinvestment performance. So lenders again have the incentive to work out these agreements with community organizations.

There was recently an agreement in the Midwest and Chicago with First Chicago

Bank, filled $4 billion in loans to low income areas in Chicago. There was similar agreements with First Union here in D.C. a few months ago.

Continuing with this table, if you turn to page 38, you see the lenders that fall in the lower half of the table. For example, you have Citibank Federal Savings that offers 18 percent of their loans to minorities, has 17 percent of their loans to low and moderate income borrowers. Remember, low and moderate income people were 37 percent of the population in D.C.

So what is it about Citibank that they're not doing as well as some of the other lenders?

What this table enables all of us to do is to have constructive dialogues with lenders saying, okay, Norwest Mortgage Corporation. You got a score of 16 in 1996, and I see that you're offering 20 percent of your loans to low and moderate income purchasers, but a regional bank that has your same asset size, say, Countrywide Home Loans, is much higher up on the table. We want to work with you to get you to what Countrywide is.

In other words, if you show lenders that their peers with the similar financial capacity, similar assets, are higher on the table, and if there's a way to do this, and that you're willing to work with the lenders, that is the value of a study like this.

This gets you to the table and gets you past the accusations flying and get you to looking at the facts and figuring out how you can really, in a constructive way, improve lending performance for everyone's benefit, to revitalize neighborhoods and to pursue profitable opportunities.

Mellon Bank and First Union Bank have sold CRA loans to Wall Street. This is profitable business. So it's a win-win, revitalizes -- I'll end on that. It revitalizes neighborhoods and it's profitable opportunities for banks, doing well by doing right.

MR. SIMS: Thank you. I'd like to, as chair, modify the suggestion I made initially, and open up for questions because I do have a couple myself. Also give Mr. Simmons a chance to -- the acknowledgement of Riggs Banks performance.

MR. SIMMONS: That was a very impartial study. We looked at the numbers. They were obviously very excited and very gratified, and as I began to speak -- it's part of the whole process that we ended ---- back in '93, we did not pass the CRA exam and certainly that got our attention.

Mostly because we had just come out of almost going under, back in the real estate crisis, but since then, and when I get on the panel, I'll sort of address it. Residential lending is part of an overall strategy at Riggs, CRA lending. That's what

I'm going to talk about, but certainly we thank you for the study.

MR. SIMS: Wonderful. I guess my first question is to David. In terms of the study that you presented, did you find or did you look into any new strategies or terms of training or orientation of employees that might assist them and improve the sensitivity, either in terms of racial sensitivity or whatever, that the institutions have implemented in terms of this evolutionary change that's going on?

MR. BERENBAUM: The study itself focused on actual practices at lenders mortgage bankers and brokers in the District and the surrounding areas. So that report itself really looked at what happens during a pre-application situation. You have a copy of the report to examine that aspect closely. Everything is charted out. However, one of the important goals of the Fair Housing Index Report was to begin dialogue.

That has happened after each of the reports has been released. Not only was it a public education project, frankly, also it was an enforcement project.

We've just filed our first complaint to HUD against a Montgomery County lender, where in fact there's very poor Home Mortgage Act data and all of the tests corroborated the findings from the HMDA data, inability to access mortgage products, steering FHA products, differential terms, for example, with regard to the cost of the mortgage product.

We, since the release of the report, have met with approximately ten financial institutions or mortgage entities and it's given us a very interesting insight into the true best-efforts on the part of institutions to try to comply with the host of regulations and federal and state laws. What's clear to me is that there is lack of consistency.

There's some institutions that frankly have a minimalist approach, where they will do just enough. For example, a two hour discussion of fair lending compliance is part of a broader discussion of CRA and related issues of lending requirements.

Whereas there are other institutions in our community, who are very proactive, and they bring in outside consultants and will spend up to five days in discussion groups with key management, developing what is a best practices approach, not only to fair lending practices, but related civil rights and diversity issues as well.

The Fair Housing Partnership Program that we have begun takes really what was the recommendations of the National Association of Realtors, and implements them across the board. We have been using this new project, not only to promote voluntary compliance with the law, but also with regard to settling cases that are actively on the enforcement side of the road.

Simply, that a company that is truly committed to a business practice of equal housing opportunity, as was said a component of being actually successful in marketing a community and realizing profit, will look at its internal practices, not only underwriting, but in retaining staff, let staff know what the company's commitment is to equal housing opportunity, to CRA and related laws.

They'll let the staff know there's accountability at every level to these laws and that this company is serious. When we settled the federal lawsuit against First Virginia Bank-Maryland, it was very heartening to hear the president of the financial institution get up and say to his staff, let me make it clear, we do not tolerate racial discrimination or any discrimination at this bank.

I tell you, since then, we have yet to get another complaint against that institution, after the case that was settled. That is the kind of message that makes a difference, as well as having a diverse staff, that will reach out to the community, a multilingual staff, as well as having a board that is sensitive and diverse as well, which is another issue for financial institutions today.

The institutions in this room have a wonderful job reaching out to community groups, but that's not enough. You can have a policy in practice, but this is simply not about changing attitudes, it's about changing actions. There is liability if a manager in a particular branch or a particular telephone operation of an institution violates the fair lending laws, regardless of the corporate position of the lender.

That's where the self testing is so stimulating. It's being done on a widespread basis. I'm glad that we're going to be getting a dialogue with the Mortgage Bankers' Association and other associations, to talk about having a common theme. There need to be parameters.

I believe the parameters of my agency are first class in testing, but I know for a fact, there are private consultants and fair housing groups and other organizations around the country who are using all different methodologies.

The bottom line is we have to interpret the law in the same way. We have to interpret the regs in the same way. We have to agree what's a violation through self testing and the parameters of that, but that's the point we're getting to. That's how sophisticated the civil rights movement has become over the past three years. That's a marvelous opportunity.

MR. SIMS: Thank you. Any other questions? Yes?

MR. TOPPING: I got a comment on a question. I appreciate very much the testimony that both of you have provided.

I found especially interesting the test you take, although I thought the mathematical precision was a little stronger than I was comfortable with, converted into the index, nevertheless I think there were some things that were fairly blatant, other things that probably were very much in the area of sloppy practices, but I think nevertheless a very compelling case is made that there is a significant degree of differential treatment that is adverse and very likely discriminatory through this technique.

I think the testing technique really allows you to probe much more than what's actually available in the overall statistics.

One of the things I'm struck with in terms of addressing this, is that the possibility -- and this of course, we can trust later. I'll sit with members of the banking industry that a substantial amount of self testing might be carried.

I'm a former Air Force brat, and also former Air Force officer, and I know the strategic air command would often send in various teams onto air bases to actually test how secure the bases were against someone coming in from the outside. The result of this was that you get a remarkable degree of vigilance and so on, through those particular bases.

I think that there might be some real nerve, if we're going to have these practices administered fairly throughout, and having the banking community more generally, really work out some kind of self testing.

This way small banks could pool with the larger banks in some way, and really institute this kind of self scrutiny in which they could end up arriving at something in consultation with groups such as yourselves. That would be a very constructive way of addressing a lot of these subtle issues, that the loan differential terms and so forth.

Where somebody may still get a loan, but they may get it at far higher rates or they may find that there really isn't this kind of competition offered. I think somehow that kind of effort on the part of the industry might be a way of addressing that. What is your sense?

MR. BERENBAUM: Whole point of the partnership initiative. To say rather than it being an ongoing adversarial relationship between the civil rights movement and industry providers, this is the 30th anniversary of the Federal Fair Housing Act.

Our nation remains hyper-segregated. It is in fact more segregated and we expect, especially if you look at this community, the white flight, not only from District of Columbia, but from our inner communities: Fairfax, Arlington, Prince George. That is going to be reinforced based on interim data that we have seen.

We, in fact, are preparing to test the outer jurisdictions because we are so concerned about what we're documenting. Voluntary compliance efforts, we have an equal responsibility to work hand in hand, doing training, self testing, policy, advertising review, whatever it may be with industry.

If a corporation is willing to step forward and say, "We believe in fair housing as best practice, we have a responsibility as a public interest organization serving this community to work with those groups."

The reality is, quite frankly, it is not something for fair housing advocates to be afraid of, you know, because there is some discussion about are we giving up our private attorney general role by doing this?

In fact, we are not. We are firewalling out the program. There are safeguards in place.

There are commitments made by the corporations if there is a complaint, to immediately do the right thing by the complainant. But what it is really doing is putting us all on the same table and the same page with regard to what needs to be done. For those who are the worst offenders in the community, it allows me as a civil rights advocate, to focus all of my enforcement activities on them, where frankly, they deserve to be put.

MS. CORONADO: Just a clarification on that point of the results of the self testing. Those results, I assume, because the banks and other lenders that agreed to that self testing, those results are not available for use in court action or --

MR. BERENBAUM: Well, there has been regulation, which has now been accepted on a federal level, which basically gives companies, lenders, sort of a limited safe haven in the sense that as long as there is a constructive action taken. Let's say hypothetically, there is some finding through self testing to correct the problem?

A regulator will not use that against a particular lending. Now it's all ultimately discoverable, but that is true in any testing situation. What's interesting, and I say this quite candidly, is that while our project was an enforcement project, we very publicly when we released the results, and I agree that, for example, three or six tests of an institution -- that shows what may be sloppy practices.

Maybe not enough to say it's a fair lending violation, but it's enough for us to go back. If it happens 9 or 12 times, then you bet we're going to say it's a fair lending violation and file a case because then you're proving a disparate treatment case.

But with the self testing, as long as a lender or any real estate provider, insurer, because a lot of people are looking at testing now, act responsively and proactively, there's very little risk associated with it because of the new regs.

MS. CORONADO: So that's a good thing?

MR. BERENBAUM: It's a very good thing. Again, this was a change. Many civil rights advocates were uncomfortable with it, and there was a lot of testimony, pro and con in tweaking it that NCRC and others were involved with in National Fair Housing Alliance. But the outcome, because I had everyone's input, has been very positive, I believe.

MR. SIMS: One last question, you had mentioned the lawsuit being brought? Was that against a specific lending institution or association or can you clarify that again?

MR. BERENBAUM: Are you talking

about the Capitol Cities cases that I mentioned?

MR. SIMS: Yeah, mm-hmm.

MR. BERENBAUM: It was against Capitol Cities Mortgage and the principal owner, whose name is Nash. I have a copy that I'll leave right here today. It is a very important case. There are many aspects to it beyond civil rights. For example, there was a very important argument being made under the federal racketeering aspects of our laws. That is also a new argument that is being made.

But I tell you, this will the first of what will be other cases or complaints filed by our agency, because this company by no means is alone as it operates in the District of Columbia.

MR. ROMERO: Mr. Chairman?

MR. SIMS: Yes?

MR. ROMERO: Mr. Nash is not licensed with my office and with the LBFI.

We rejected his application. Legally, he's not allowed to make any residential loans in the District of Columbia. Whether we can afford it or not, that's another problem. But he's doing a commercial role.

MR. SILVER: That's what I thought.

MR. ROMERO: And there's nothing Carlos can do about it.

MS. HEUER: I guess I would address this question, how did you make a decision on which banks and lenders that you used in Washington?

MR. SILVER: That's a good question.

MR. ROMERO: Include all of them or was there --?

MR. SILVER: There's a cut-off. We wanted to, as much as possible, compare apples with apples. So we decided that lenders at 250 applications or more. They had to have taken in at least minority application. That was the cut-off. It roughly translates to people with market shares of about one percent of the market and hire of applications. That was the cut-off, so you'll see D.C. has about 50 lenders in the study.

MR. BERENBAUM: Mr. Chair, can I just quickly make just one more remark?

MR. SIMS: Sure.

MR. BERENBAUM: Relevant to CAP Cities, and frankly what's happening in our entire nation, is that there is a need for greater guidance from regulators in the sub-prime marketplace. We see that beginning to be developed by, for example, Fannie and Freddie.

There's been a lot of dialogue about that, but I believe that this would be a very appropriate function, for example, for our superintendent in the D.C. environment, in a very proactive way because particularly in the D.C. Marketplace, there is a greater reliance in some areas of our community on B, C, and sometimes even D loan products.

We hear some of the horror stories associated from some of the lenders who are less than professional in their approach to marketing these products.

MR. SIMS: Any other questions, comments?

MR. SIMMONS: I want to thank you. We will be, as I mentioned earlier, using the presentation you made to date in our addendum to the U.S. Commission on Civil Rights. Thank you very much.

MR. SIMS: Thank you. If we could have our second panel? David Baer?

MR. BAER: Yes, sir. How are you doing? Good morning.

MR. SIMS: Russell Simmons, do you get mistaken for the other Russell Simmons?

MR. SIMMONS: Occasionally, I refer to myself as the poor one.

MR. SIMS: Okay, and Jan Maxwell? Is Jim Griffin here?

SPEAKER: Marcia.

MR. SIMS: I'm sorry. Okay, okay. The next panel will provide us information from in the industry perspective, bank's industry effort to assist to minority home buyers. The first presenter will be David Baer, president elect, Mortgage Bankers Association of Metropolitan Washington, followed by Russell Simmons, the poor one, the senior vice president for business and community development and CRA officer at Riggs Banks, and our clean up hitter will be Jan Maxwell, vice president and CRA officer of the Chevy Chase Bank. Welcome.

MR. BAER: Thank you. Good morning, everybody. I appreciate the opportunity to address the group this morning. As an active member in the lending community, which encompasses Washington, D.C. as well as the Maryland and Virginia suburbs of the city of Washington, I come to you as a representative of both, or rather, banks as well as mortgage bankers, as well as general mortgage lenders.

Our membership consisted of 110 different entities, representing a myriad, if you will, of institutions and entrepreneurs. Small companies, single branch operations, and then larger national bank operations as well, are members of the Mortgage Bankers Association of Metropolitan Washington, which is a chapter of the national association, just to give you some perspective.

As an active participant in the governing body of the MBA of Metropolitan Washington, I've been involved for six years in the association. I've been involved in lending since 1977. Started my career out with a bank and currently work for savings and loan, but have worked for private owners as well during a 21 year period.

Our efforts at the MBA of Metropolitan Washington, as it relates to your hearings, I think can be stated as one of educating our group as it relates to their responsibilities, both social and professional responsibilities. In 1996 to give you sense, we went with the Virginia Housing Development Authority and commenced an educational program to not only educate our membership, but educate the public.

We had a relative start. It started out slow. We had maybe 25 to 30 homeowners per class, and now this year, we're getting an upwards of 75 to 80 participants per class. I'm very happy to report that about 2/3 of those participants are converting to home ownership. So the program itself was created by the Virginia Housing Development Authority.

They came to the Association in the third quarter of 1996. Both these institutions have participated in those programs. We feel, as an association, the best thing that we can do for the consuming public, is to educate them as it relates to the processes.

There's no doubt that participants or rather member firms and their employees come to the table with predispositions as it relates to how they interface with people. That is human nature and that is, I'm sure, is what this commission's really trying to address. But part of the process with VHDA puts everything in a very objective format, and we have found and as I have mentioned, to be very successful.

We're conducting at least one seminar a month right now. We have enlisted the Northern Virginia Association of Realtors during the course of this year. That has really added a lot to our grassroots effort. As a pending motion for the executive committee for the MBA of Metropolitan Washington, we're going to pursue the same avenue with the Maryland Association as well as the D.C. Association of Realtors, because they're the ones with the contacts with the public.

Our objective is to notify the public of the opportunities in housing, not just in the housing stock, but the housing lending programs, the flexible lending programs that are out there as earmarked by Fannie Mae and Freddie Mac and the larger financial institutions.

It is worth noting that the typical mortgage banker, the small time operator, doesn't have the ability to create these programs themselves and have to rely on these secondary marketing players, like Fannie and Freddie, to get these programs out to the Street. So again, we're looking forward to an extended grassroots effort going forward through the end of the millennium and beyond. We have educated in excess of 750 people in the course of the last 16, 17 months. We're very proud of that.

Again, the conversion rate is about 67 percent to home ownership. So people that come through the program are -- and we go after, you know, the Hispanics and the minorities, and anybody that has an interest in buying a house, you know, specifically earmarked Hispanics. We've done these classes, if you will, at libraries, at community centers, that are not done typically as you might suppose on the grounds of an institution. They're done at a neutral setting, which we think adds to the attraction.

The community fairs, providing seminars and exhibits to approximately a 1,000 perspective home buyers, held in June and September of last year. Last year also, we joined forces with several area associations community groups to form the Housing Coalition of Maryland and the Housing Opportunities Coalition of Virginia.

The mission of each coalition is to enhance and expand the efforts to ensure that affordable housing opportunities exist for families in the Washington metro area. Coalition members are committed to continuing their proactive role, in support of the National Home Ownership Strategy and the National Partners in Home Ownership, which I think echoes Mr. Berenbaum's comments about being proactive. I think it's a critical feature.

We have co-sponsored fair housing and fair lending seminars with the Montgomery County Human Relations Commission, providing a full day of educational sessions on fair housing and fair lending practices in April of this year. We have made, as an association, annual contributions to Jubilee Housing and D.C. Habitat for Humanity. We agree as a membership or association, we have a code of ethics which stresses fairness, reasonableness, integrity, sound practices and conduct, without regard to race, creed or color.

Also, as you will hear from my

associates here, many of our members regularly hold fair lending functions and remain very involved in the community outreach projects. That's pretty much my prepared comments.

MR.SIMS: Thank you.

MR. SIMMONS: Thank you. My name is Russell Simmons and I'm with Riggs Bank. I am and we are very pleased to be here. I'm going to talk about an overall story and then get to mortgage lending because it's all a part of -- a few years back in '93, Riggs was in serious trouble because of the real estate crisis. We got an eastern approval from the CRA rating.

Since then, we have begun to, I guess, consider the entire CRA lending process including mortgage lending on a fairly systematic basis. We do strategic planning. We've assembled a staff. We've gone about making CRA lending an integral part of our business.

It is a profitable business. In '93, we loaned about $20 million dollars a year, CRA. We have since then raised that level to approximately $125 million a year. We've lent over between $500 and $600 million in the last 4/5 years. That lending has been as profitable as other lending in the bank.

Now we lend approximately one out of five dollars in this community to low and moderate income areas. That happens to be the percentage of low and moderate income census tracks, and roughly lower than moderate income population in this metropolitan area.

It takes an effort to do that. We've not changed our products a great deal, but we have changed the marketing. We have changed how we do business. We have concerted efforts. We develop a strategic plan, each line of business for the CRA and the bank every year. It is monitored very closely, both on internal committee and a moderate income areas.

As you know, low and moderate income areas also are highly correlated with being in minority areas. Actually, the eastern half of the District and the inner beltway, Prince George's County probably make up 80 percent of the low and moderate income census tracts, and I'm sure almost as much for a great portion of the minority population of this area.

So our concentration has to be where the people are. It is a tough business. It is a very, very competitive business. My colleagues at Chevy Chase and others are our fierce competitors. It is -- you have to do more each day to stay in the same place. I hope when the study comes out again from the National Community Reinvestment Coalition, that we are again number one, but it is a tough, tough fight.

Many lenders are realizing that the bulk of growth in home buyers' market are coming from minorities and first time home buyers. Certainly I think in order to be in that business, you have to have the product first. We think we have good products. We were one of the first people out of the box in terms with affordable housing loans.

My colleague, Andy Morris, who couldn't be here today, runs our residential mortgage section and he has been very innovative and very, very dogged in terms of making these kinds of efforts happen. He deserves, sort of, the recognition on the mortgage side because he monitors and watches that program.

In terms of how we make things happen, we do penetration reports every quarter. What we do is we look up geographically where every loan in the bank is going. If we see that a particular geographic area is missing, or we're not getting enough in a certain place, we devise specific strategies to do that.

It may mean going into a low and moderate income area with a pre-approved home equity product. It's very, very difficult, particularly in the low income census tracts, because the home ownership really may only be 15/16/17 percent. It's not the 60 to 70 percent that you'll see in this metropolitan area. So it is very difficult to penetrate some of these places.

They have just high rental markets and you have to do marketing and people don't really buy -- you get customers from there, but they don't buy there because the housing stock isn't available.

In ward 8 in Southeast, as you probably read in The Post a couple of weeks ago, there are 1,000 single family units now on the boards that will developed within the next 12 months. That is a, not only a sign of confidence for ward 8 and the District, but a phenomenal signal from the private sector that there is a ready market in the

District of Columbia.

I mean these houses are, I guess, ranging from the low $100's to the $150's or more. But certainly it signals that there is market, I think. I saw another report about the year 2002 or 2003, there are another 1,000 units for ward 8 that are on the boards. So we're happy about that and I think other places in the District will begin to see that. We hope parts of Prince George's County will also begin to experience a renaissance in affordable housing.

In closing, I think key to marketing in low and moderate income areas across the board, are knowing your market, partnering with neighborhood groups as much as possible. We work with a number of CDCs, as well as the ACORNS and NARCORP that I mentioned. Paying attention to this is a good business.

Three or four years ago, we were not lending $100 million in this area.

That's $100 million of lending opportunity we weren't doing. This is good business. We take it seriously. Thank you.

MR. SIMS: Thank you very much. Jan?

MS. MAXWELL: Thank you. Mr. Chairman, members of the commission, I am Jan Maxwell. I'm a vice president and CRA officer of Chevy Chase Bank. I'd like to also introduce my colleague, Richard Harvey, vice president and our chief compliance officer and of course our community partner, Marcia Griffin, who's president of Home Free. Marcia will speak to you when I finish.

Chevy Chase Bank is the largest federally charted thrift institution in the Washington metropolitan area. We have over $6 billion in assets and a branch network of 140. 12 branches are located in the District of Columbia. Any lending statistics I give you this morning are only the District of Columbia, not the larger metropolitan area.

Chevy Chase Bank and our mortgage subsidiary, the B.F. Saul Mortgage Company, are committed to providing a variety of mortgage loan products and services to promote the opportunity for home ownership among D.C. residents. Our mortgage products and services are accessible through our retail, wholesale, and telemarketing operations. Our staff attends fair lending and CRA training twice a year, however, we believe that we can do a better job with that, and are currently in the process of talking with the Fair Housing Council about expanded training opportunities.

Over the past five years, our HMDA statistics tell us that Chevy Chase Bank has provided mortgage financing to over 2,900 D.C. home owners, for a total of approximately $465 million. Of that number, almost 1,200 were minority borrowers, who borrowed in excess of $145 million, and I might add, at prime market interest rates or below market interest rates, not at sub-prime rates.

Despite the NCRC report that we just saw this morning, we believe our success in reaching out to the minority community is the result of committed efforts on the part of our loan originators and successful partnerships with community-based organizations.

Additionally, we have created a series of three financial/education workshops covering the home buying process, credit awareness and repair, and budget development. Our credit counselor, along with other staff members, have presented over 60 of these workshops during the past three years, which have been attended by over 1,200 consumers.

We are especially proud of our relationship with Home Free U.S.A. We became alliance partners with Home Free U.S.A. in the crusade for home ownership in the summer of 1995. Since the beginning of our relationship, Home Free has provided marketing outreach and home buyer education to hundreds of prospective home owners.

Through this process, the bank has successfully funded over $15 million in 145 home loans. The majority of these loans were to minority borrowers of low and moderate incomes. At this time, I'd like to introduce Marcia Griffin, who'll talk to you a little bit about her insights into how successfully assist minority homeowners.

MS. GRIFFIN: Good morning. It's a pleasure to be here. My name is Marcia Griffin and I'm president of a non-profit home ownership organization here in Washington called Home Free U.S.A. I'm also very pleased, I must say that certainly representing the non-profit environment and also being directly in touch with the aspiring home owners as well as home buyers in this area.

We are especially pleased to have your organization and many others to be very conscious of, you know, home ownership pursuits and the position of minority, and just sort of underserved communities across the board. So I'm very happy to be here today.

Home Free U.S.A. is an organization that has partnered with Chevy Chase Bank and other lending organizations in the Washington metropolitan area. Our job is to touch the community and to really incite a sense of hopefulness, if you will, within our communities to not only let them know that home ownership is possible for them, but actually show them how to get through the process of home ownership and actually become home owners.

We feel that in order to overcome many of the inherent issues and problems in the whole home ownership process, it really requires three main tools, we find. One, without question, education, we brought this up earlier.

Education, information and motivation are three very, very important elements that are needed in order to overcome many of the obstacles that are faced by minorities and low and moderate income and just underserved people generally. The issues that many people with regard to home ownership, and you know, these are issues that the lenders also face.

The credit issues, the savings issues, all of those, you know, are ones that we engage everyday. We interact with almost 1,000 prospective home owners a week. We are involved very actively in a campaign to encourage people to CDC as a place to live, and to afford them the information that they need to know about the financial incentives there are to buy in D.C.

Generally however, we know that people need, they need a lot of information.

There is a significant amount of support that people need, not just financial support, which I must say that the lenders could do anything. Those lenders, like Chevy Chase, and with Riggs and others, who are able to afford down payment and closing cost assistance.

This is absolutely needed within our community. I'm not just saying it's needed by even low income people. It's needed by large income -- high income people also who have good credit, but just have not been able to save.

Clearly however, our mission and within Home Free, we have created what we view as a home ownership model which brings people into an environment and really is designed to uplift their financial understanding. It's designed to get people to understand what are the problems, the obstacles to home ownership. If you have credit problems, these credit problems really need to be solved.

Really, we take them under our wing and really with a significant support that we've had through Chevy Chase, you know, to bring them under our wing and get people to really be able to, not just understand what an FHA mortgage is and you know, who Fannie and Freddie are, but really get a real understanding as to who's getting rich and who's getting poor when you're using a lot of credit cards.

How to look at our spending patterns so that even though it seems like we're overwhelmed today with bills and creditors and everything else there, you absolutely must save some money.

When you're going to a lender, you'll want to have some money of your own on the table. This is possible. Within the communities and the people we work also with 133 churches here in D.C., there is a tremendous, tremendous thirst, if you will, among all people for information. They need to talk to people who have become homeowners, or people who are also going through the process so that they know that when they get to the end, and certainly in our environment, every single person who's gone through the Home Free process has been approved.

We feel that people need to be educated and informed about why some people are approved and why some people are not approved. There are many things that we as individuals, that the prospective home buyer can do, quite frankly, on their own to ensure mortgage approval on the back end. So, you know, we work with HUD and DHCD and Chevy Chase and many other great institutions to inspire home ownership, we're seeing significant interest.

As I said, in our classes, we have on average about 100 people in every single class. Quite frankly, we have an infrastructure that is designed to hold onto the person from that class all the way through closing and two years afterwards because what we find is that once a person gets into that home, they really need to have someone that they can call if they have any questions. They need to still come to some classes afterwards.

Of the people that we have put into homes which 145 have gone to Chevy Chase, you know, many of the loans have gone to almost about 30 or so other lenders in the metropolitan area. We have helped, in the last about 15 months, to get over 300 people into homes. The counseling is great. The education is great. The opportunities are great and we are here to just, you know, thank you for your conscious effort to really look out for people as they become home owners.

MR. SIMS: Thank you very much.

MS. GRIFFIN: Thank you.

MR. SIMS: At this point, I'll

throw it open for questions and I think will lead off with a question. It appears from this panel that there has been incredible outreach, education support for getting the perspective buying public educated in terms of how to get through the system and how to be prepared to be a home owner.

Going back to David's Berenbaum's presentation earlier to the panel, the notion of this partnering. There's another part of the equation, which I don't know that I've heard much of, and I'd ask David to come up and respond to it. What's being done within the association to either share best practices and what's being done within the banks in terms of internal compliance? There's two parts of the equation.

In my opening remarks, I mentioned about maybe the large -- the loan denial rates are a result of a lot of non-qualified people coming in, but maybe there's also part of it in terms of an insensitivity, a lack of training, a lack of programs, a lack of evaluations or monitoring of the people that are dealing with the public once they come through the door.

I'd like to ask David if anything is being done by your association to get your members sharing best practices or -- and then of the two banks, Russell mentioned your quarterly penetration assessment to look at where you're not doing business that you should be. What other kinds of things and systems do you have in place to begin to see how your employees are responding to the people that come in and ensuring that they have a sensitivity to the concerns of those consumers that come in wanting to get a loan from the institutions?

MR. SIMMONS: You want us to go first? Well, I think the penetration analysis is a business tool that's been a useful tools. I don't think you could ever have enough training with which a staff --

and it's just a constant review process and a constant re-enforcement that you basically treat all customers well and the same.

We also have a couple levels of second review, both within the mortgage division as well as, there's a separate second review committee within that systematically, after the fact, looks at large group samples. We see pattern going over that sample we corrected immediately from a policy point of view.

That, I think has served us well because we haven't had any problems to date with unfair practices. But overall, I think using tools within the bank, using best practices, certainly talking to you colleagues frequently and finding out what works, what doesn't. The competitive market's sort of lets you know that.

You know if you're not getting the business, there's a reason for it and you have to change to try to do that. Once you decide to get into this business, and it somewhat of a specialized business, but it's not unlike any other specialized business that a bank gets into, you get in, you find out how to do it, and you compete.

MS. MAXWELL: If I could just ask my colleague, Richard Harvey, to talk a little bit about how we handle, you know, internal review.

MR. HARVEY: To answer your question in terms of whether or not there is a sharing of best practices amongst the institutions, I don't think a whole lot of that goes on, but I don't think that there's a whole lot of secrets either. I think we may do things a little bit differently, but we've got the same result orienting, you know in terms of how we want to succeed.

I think David's point earlier on was that senior management makes it known that we won't tolerate discrimination. It's going to trickle down and everyone will know it. I think that's what we started Chevy Bank. We also have a second review committee.

The policy that our senior management has developed with respect to mortgages, that no one individual can deny a mortgage. It has to come to a committee. That committee is empowered to determine whether or not there's any way at all we can make the loan.

Not with the -- you know, not looking at -- in terms of whether or not we're going to deny it. The second committee is made up of individuals that represent the mortgage company, underwriting, processing, compliance division and various other parts of events.

We were all trying to sit around and determine whether or not there's any way we can make loans. You know, like I said, I don't think there's any sharing of that information, but I think that's something that's pretty common now in terms of the second review. Different organizations do them differently.

Ours is just that, you know, a man from the top, that no one person's going to make any decisions in terms of denial.

MS. MAXWELL: Do you want to address the issue of self test?

MR. HARVEY: Sure, that's also something that we engaged in. On an annual basis, we do self tests. What I mean by that is we hire outside companies to come and to conduct mystery shopping. You ask Cheryl here I guess, whether or not that is something that we found helpful. We have.

What we do is we take a look at that data, and we make certain determinations as to whether or not there are particular individuals within the organization that may be exhibiting discriminatory practices, whether there are certain branches, not certain individuals per se, but certain branches that tend to be discriminating against individuals. Then we take actions based upon those findings.

MR. SIMS: That's no small statement. It's important that you present that because again the notion is that if you just focus on the consumer portion, you negate the notion that in any relationship there are at least two people or an institution and an individual.

So the notion that you've got your own self-testing begins to address at least the testing that David and his group have done which found the 41 percent in one case were discriminated against, with Hispanics and almost 100 percent in terms of questions about credit.

You may have some process that once the application is filed, but how many people never get to the application process because when they make the phone call or they come in to meet somebody, every indication is that your not welcome? So, it is important.

I think that you folks emphasize as much, the internal pieces that your doing, as well as what you're doing to prepare the consumer. David and then this gentleman?

MR. BERENBAUM: I think that we're taking our first baby steps in collaboration on these issues and that we're doing in this area, particularly D.C., I hope will become a model for the nation. The main things for us to get to the same page as we're going to find discrimination and what becomes a problem from the marketing of fair housing from a perspective.

I think it's important for the commission also to take note from the other lending issues. Small business loans, in particular, are a major issue in the community to expand entrepreneurship, loan protected classes in this nation. It's unfortunate that many protected classes have to, in fact, take second mortgages on their homes just to start a small business.

It's a much larger statistic than their white counterparts trying to be in small businesses. This is an issue we need to address. Also, other related loan products such as the refinance market, such as home improvement loans.

It's interesting that we still receive a large number of complaints in those areas from throughout the metropolitan area. The relationship between appraisal and the lending process -- I spoke with a number of individuals in this room. The problems that the lenders are encountering aren't technically a fault of their own because they're using an outside appraiser, but that appraiser as the representative of the financial institution, if in fact they are unprofessional or violate our nation's civil rights laws, that creates a liability situation.

All of this gets back to the

systemic and complex nature of discrimination in our nation. We cannot -- and this is our approach now, the total approach cannot look lending as an issue unto itself. It is not, for example, the lending institutions call to this nation that we have a segregated housing market, just as much government and realtors and every other aspect of our marketplace.

I think the charge for all of us is to be innovative and think of new ways to reinvent the process. Litigation alone is not getting us there. I say that as a person who's filed over 60 different civil rights complaints. Voluntary compliance alone is not getting us there either because we still have the problems within our corporate structures about how products are marketed.

But if we can work together as civil rights commissions, with fair housing planning agencies, with city councils, with the corporate area, and agree on what are the best approaches and it's all of the things we've been doing plus new things, then we're going to get there. So, I'd like to say that the best practices approach is working even though I don't know the methodology of 30 of the different financial institutions doing self testing, but it's being done.

Now the doubting Thomas and the civil rights folks will say, oh that's just done so they can document compliance 100 percent of the time. The lenders would say we're out to get them because we're suing them. We're beyond that. That's the point to be made to the nation, equal professional service, equal access to mortgage products based on your individual qualifications.

I'll add mortgage products for the rental marketplace for the commercial side as well because there will always be a portion of the American public, despite the noble dreams of Andrew Cuomo and the federal government, that will never be home owners, and we have to be sure that housing stock is there that is quality and renewing itself, both from infrastructure upgrades as well as new construction. There needs to be more mortgage products out there for rental housings of opportunities as well.

MS. KRUVANT: I have a question. Were you going to make a comment to the question?

MR. SIMS: Sure, go right ahead.

MS. KRUVANT: If you were going to make a comment to the question, I would suggest --

MR. BERENBAUM: A comment.

MR. SIMS: Were you going to make a comment adding --

MS. KRUVANT: Sorry. I heard today two things that were extraordinarily positive to us, particularly as we have gone through the different deliberations internally throughout the years. We heard from the member, Mr. Simmons from the Riggs Bank, that it is good business to lend to minorities.

Then indeed it has been good for your bank.

We've also heard from you that indeed the members of the communities that are going to be borrowing money, they need to thoroughly be educated/informed, but looking at issues of saving practices is one of the critical concerns to prepare yourself to be ready to borrow money.

From the other perspective, are there some things that now that we hear that it publicly and with data that indeed it is good business to lend to minorities? Are there some things in terms of regulations or regulatory approaches or the system that it is making it too cumbersome for you and for the borrowers to be able to succeed?

If our goal is to make it available, and I'd like to hear particularly from you and from the banks or anybody else, are there some things that need to change so you could continue doing good business of more than anything that the borrowers have access to funding?

MR. SIMMONS: That's a dangerous question to ask bankers.

MS. KRUVANT: I'm usually good at it.

MR. SIMMONS: We are probably the most regulated industry in this country. You're asking me if there are regulations that we could do away with?

MS. KRUVANT: Well, you know, it's time that we all look at ourselves differently. In the past, we used think ourselves as people on two different sides of the table and with different concerns. I think some of the results are allowing for us to have a different type of conversation and also sometimes to address some other issues, if maybe some of the issues were created.

MR. SIMMONS: Mm-hmm.

MS. KRUVANT: At different times.

MR. SIMMONS: Certainly the regulations and the laws that were peddled on both -- were needed or when this thing first started, and some of them are probably are still needed. We are so heavily regulated that it's just tremendous costs that you have to bear to do all the regulations.

Certainly I think, and while I can't say we don't want this regulation or that regulation, I think we need to look very carefully at that because the savings from this, I mean, can be passed to the consumer. It costs us a tremendous amount of money to meet the regulations across the board, from CRA to safety in towns. Along that suggestion that we not have any of them, but I will suggest that we, both government and industry, look very carefully at regulations, the cost of them.

It's often, it's much like a band-aid approach. You have a problem here, you put a band-aid on it. There's another one over here. Over the years, you have this tremendous cadre of regulations that are for this reason and that reason -- and when you look at them as a whole and put them together, you've got smorgasbord of things that often don't make sense and that are awfully expensive and take a lot of time, a lot of resources to carry out, that are really not germane today as they might have been 10 or 15 years ago when the seats came in.

MS. KRUVANT: Thank you.

MS. MAXWELL: I would make two comments. First of all, with regards to mortgage lending, you know, most of us lenders cannot afford to just go out and make the loans and let them sit on the shelf for 30 years. We do have to access the capital market. So therefore, who's really pulling the strings when it comes to the loan programs and the criteria of those programs? You know, those are the secondary agencies, Fannie Mae, Freddie Mac, and the government agencies had MVA.

Of course, they're balance everything against, you know, an issue of risk. So, there's constant change in the programs based on what kind of history may have developed in that program. We've seen just in the last five years some major changes in the -- what I would call the low down payment, but the industry views high risk mortgage loan.

I know we've worked very closely with Home Free and Freddie Mac to bring out a mortgage product called the Freedom Fund loan, which we hope will address some of the needs in the minority community. So it's an evolving process and it -- you could say that it might be an impediment, but it's also, you know, a business reality. So I think we have to keep that in mind.

The other comment that I would make is that I find these meetings very interesting, but I'm always somewhat bothered, again when we talk mortgage lending, that the representatives from the real estate industry are not here. They have a tremendous amount of influence. Anybody who has found their dream home and knows that that realtor is really the one who's going to get that home for them, you know, understands how important they are to the process and how influential they are.

So, I think there needs to be more dialogue with the real estate community. I know that David in his efforts in the Fair Housing Council, they have tried to address that very specifically, but I think all of us lenders and most of the community-based organizations would say that it would be helpful to have them more involved.

MR. SIMS: Yeah, I do think we reached out to the real estate industry to invite their participation. It's duly noted. The gentleman right -- and then we'll go back to you, Josh.

MR. EARL: I'd like a moment to see

whether it's still morning. It is. Good morning. My name is Maurice Jourdain Earl. I am managing director of CLC Compliance Technologies. We are a Washington, D.C.-based compliance technologies consulting firm. Our client base essentially are lenders, DOJ and others involved in discrimination in lending.

We have quietly, for the last six years, been doing a lot of the heavy lifting behind the scenes. We go in and we work with institutions one-on-one to analyze their systems, to analyze their lending practices, to do studies with respect to their outcome of a loan application -- obtaining the loan applications, but more importantly, what happens to their loan application once it is obtained?

I'm here kind of filling up because I see what the issues really are in terms of the exemplary lenders, are the ones that are truly looking to manage fair lending. It's those people who would add to and put the resources to Fair Lending as they would to managing the bottom line.

So hearing the exemplary lender story, the best practices if you will, are ones where from the top down and bottom up, they're truly involved with trying to find out where the bottlenecks are, where are the policies and procedures and the practices that are breaking down, that prevents people from all races, all colors, etcetera, from having an equal opportunity to update in a loan.

But at the same time, I see so many lenders fall to the trap of having the confusion between affordable housing and fair lending. So we're constantly fighting this battle of getting them to open up and see clearly that affordable housing is different than fair lending, that you could have an affordable housing program that reaches everybody based upon income, yet at the same time, still have fair lending problems, that you can also have an outstanding CRA rating and still have a fair lending problem.

So it's a function of what are you doing to identify the fair lending issues and risk that are associated with the institution?

So to that end, I'm truly pushing today, from a broad policy perspective, the use of comparative file audits in fair lending testing, pre-application testing versus post-application testing. Pre-application testing essentially is the mystery shopping that you've heard about and there's a lot to be learned about pre-application.

However, once that application is obtained, if there is no match pair testing taking place behind the scenes, you will not know whether or not a fair lending issue from that perspective is occurring. To that end, after thousands of loan files that we have reviewed during a comparative file audit, I can tell you where the paradigm shift needs to take place with respect to managing fair lending. It is here.

The issue has been that the industry by and large has been focusing on denials, black denials, Hispanic denials. So programs and practices have been set up for second reviews, trying to see whether or not the denials are justified. Quite frankly, based upon the guidelines, most of the time, denials can be justified. However, the paradigm shift needs to be -- to begin to look at white approved loans.

When you begin to study white approved loans and you find differences with respect to the quality of assistance, differences with respect to how someone may have been coached and told about little nuances and wrinkles, given advice as to how to go about getting a gift or how to go about getting some down payment assistance, or how to go about paying out some additional debt in order to qualify, to get within the guidelines of the ratios.

It's the quality of assistance that takes place, whether it be based upon a cultural affinity. The cultural affinity of course comes about by virtue of the fact that you have very few people of color on the front line, as loan officers or brokers in this industry. Okay?

It is still by and large a very, very white industry. So with that lack of diversity, you have differences with respect to how people communicate. They don't have the same level of comfort because they go to the same church or belong to the same health club, to sit down at the kitchen table, then really dig out how you can best situate yourself to get qualified.

So diversity is really a -- still a major issue. Then, with respect to studying that white approved loan, when you begin to find the kind of underwriting exceptions that are made, and begin to apply those exceptions to that same black and Hispanic deny population, I pretend that many of those black and Hispanic denied Africans would get approved if the same rules were applied.

But lenders still today, focus predominantly on concentrating and studying the black and Hispanic deny population without looking at the white approval. So I'm pushing for a comparative file audits as the really bottom line, guts up during fair lending testing.

Lastly, I want to ask the Commission to begin to focus on some other broader issues that are beginning to occur, and that is the use of credit scoring in lending. It's being driven, largely by Fannie Mae and Freddie Mac, through the use and the phenomenal increases in the use of technology today. It's gotten to the point where now we're trying to do with mortgage lending, where it's a black box. Okay?

If you don't fit the box, essentially you're out. Credit scoring is driving that box. There are still issues with respect to credit scores. I'm looking at a credit report yesterday. Four different credit scores from four different repositories. Okay?

So it's not only the issue of the score itself, what's in the formula? But just as importantly, how is it being used? What policy does that lender have to say which credit score do I use? Okay? Mind you, the range was a low of 570 to a high of 683. Okay? So, if someone wanted to deny that loan, they'd simply use the 580 or the 570. Okay?

All kinds of issues there, and I think that the Commission has a good opportunity to begin to look at the influences of the secondary market, Fannie Mae and Freddie Mac in particular, that's driving a lot of this. Okay? Because the lenders are sometimes stuck wanting to do affordable housing and minority lending, etcetera, but they cannot afford to take the risk of putting those loans in their books without knowing it as a ready market available for those loans to be sold.

That's particularly the mortgage bankers because mortgage bankers don't hold loans. They simply make them and with the purpose of selling them. The depository institutions at least have the opportunity to put the loan in portfolio. But even they got into trouble when they had too many of them and interest rates went crazy because they would choke on them.

So the point is, we need to have more of a focus on a broader scope as to where the bottlenecks are in this country, and mind you, Fannie and Freddie being quasi-public entities, need to play a better role with respect to what's going on here.

Thank you.

MR. SIMS: Any other questions or comments?

MR. SILVER: I'd just like to make a comment --

MR. SIMS: Yes, I'm sorry, Joshua.

MR. SILVER: On a question about regulatory burden. NCRC would humbly submit that the community re-investment act has worked and has done tremendous things, and it needs to be strengthened. That's the way the regulation needs to be fixed. A couple of years ago, actually, there was a re-work of the community reinvestment act regulations. As you've heard, you know, in passing, banks are examined by federal regulators for a CRA compliance, how many loans they're making to low and moderate income borrowers and low and moderate income communities.

These exams where we worked a couple of years ago, rather than you know, a few years ago, you'd actually have the CRA examiner look at how the board of directors of a bank were involved in CRA program, kind of a process, now that the emphasis is much more on the performance. Where are the loans actually being made?

There was pretty much of consensus among the lenders and community groups that that was the way to go. So the exams have been reworked and there's three different exams, small bank, large banks, and limited purpose banks. Let's just say again that since 1977, there's been $1 trillion dollars of CRA commitments made by lenders to low and moderate and minority communities.

You know, with CRA conversations between lenders and community organizations, how to serve community organizations would not be taking place. And -- you know, there was -- and actually I should say the 1997 HMDA data is supposed to be released any day now.

So we're all waiting eagerly and we

hope that the progress continues. Some of the trends Maurice Jourdain Earl talked about are really some trends, credit scoring and other issues like that.

MR. EARL: Sub-prime lending.

MR. SILVER: Sub-prime lending, other issues like that. So I will end by saying that CRA should be extended. As Mr. Berenbaum was saying, you have to look at the total picture, not only what lenders are doing, but what insurance agents are doing. NCRC has advocated the extension of CRA to other types of lenders, and credit unions, mortgage companies.

Mortgage representatives will not be too happy to hear about that. But anyway, but also to a community reinvestment obligations for insurance companies and securities firms. You may have heard that Congress is considering financial modernization legislation that would basically allow banks, insurance companies and securities firms to all own one another.

Now if they all own one another and CRA only applies to the bank, what's going to happen? The assets may go from the bank to the other parts -- the insurance and the securities firm. So, and even some bank -- actually a lot of bankers say CRA should be extended to other -- to level the playing field and won't say so publicly.

I guess it was -- actually there was a credit union bill a couple of days ago that was approved by Congress. Should a Community Reinvestment Act be applied to credit unions? That was an issue with that. So that's how things should change if there is a CRA community reinvestment obligation for the insurance companies, you would have -- in HMDA-like data for insurance companies, you have these conversations occurring with community organizations and insurance companies.

It's an additional level of

scrutiny and accountability that would help all of us do the job of reinvestment. Than you very much.

MR. SIMS: Thank you. Yes?

MR. HARVEY: I just wanted to make a comment. Well, financial institutions are committed I'm sure to fair lending. I mean at Chevy Chase Bank I can tell you, we certainly are committed. However, it's a little disheartening, and sometimes I think the picture is not as clear as it ought to be, when we see consistently reports that talk about, for example, denial ratios and denial numbers and other things that don't really give a full picture.

I guess what I'm concerned about is when applicants or you know, consumers hear about these reports, are they going to be discouraged from even getting in the process? They aren't always an accurate picture.

I think I read in your report the fact that it was brought out that institutions that had high concentrations of applications from minorities, high approvals of minorities, also had high denial ratios. You know, it's sort of like that Catch-22 that's talked about there. These reports, if they don't accurately reflect why these things happen, for example, the HMDA data doesn't go into -- it doesn't give you, you know, reason to know that there is in fact discrimination. I don't see any of the reports really talking in terms of what are the reasons for these denials?

I mean at Chevy Chase Bank, what we do is we go back and we try and find out what are the major reasons for the denials. We've done that process over and over again, year by year. By far, there are two issues that continue to prop up. One is credit history and the other is debt to income ratios.

With respect to the credit history, we take the applicants as they come. We can't change their credit history. What we try to do is get involved with them through organizations like Home Free. You know, we catch them before they even come to table and we educate them in Home Free assistance, in straightening out any kind of credit problems that they may have. I think it's important for the picture to be a little bit more clear.

MR.SILVER: I'd just like to say real quickly in response to that -- I'm sorry, but I do want to say real quickly in response to that, the denial thing in our report was only one of six indicators. We did give things credit for marketing and for offering a whole lot of loans -- offering loans to low income in minority communities. So we try to look at a holistic -- I just want to make that real quick comment that we took a holistic approach in our report. It's just not the denial way.

MS. HEUER: Well, I was going to make a comment that while we were doing this report, I was in fact a real estate agent. So I was very conscious of -- and didn't agree with a lot of things that came up actually because as an agent, I felt that I worked as hard as I could to get the best loan from any bank. One of the things that we were always conscious of was -- and asked what do you base on the credit scoring? I mean, are you going to deny?

I would not ever go to somebody that I felt that was going to do credit scoring. I think it's probably one of the worst things that's happened. Do you feel that there will be any effort to ease this credit scoring?

MR. BERENBAUM: There is a lot of discussion now on multiple levels about the black box of credit scoring. It's being looked at different ways. National Fair Housing Alliance and the professional organizations have been invited by some of the secondary market players such as Fannie and Freddie to start on. They're just looking at the issues.

I've been very, very clear on the issue in the community, that if we feel that a declination is wrongfully based on the credit score, we're going to file a complaint. We really feel that it is danger in all the accomplishments that we have made. There must be the human ---- to look at credit and explain what happened to the individual or to correct a problem, to look at the disparities and who is the source of the credit scoring. This is a major, major issue, but it's being looked at very closely. So I'm very optimistic within six months we may see some --

MS. HEUER: Could I just ask one question briefly? Do Fannie Mae and -- do they have a certain criteria? In other words, if your credit scoring is below --

MR. EARL: 620.

MS. HEUER: That you cannot give a

loan?

MR. BERENBAUM: I've been approached by underwriters at some of the major financial institutions here in the ---- giving their advice right now. We want to work along, but they know they can't sell the product. That's unfair.

MR. BAER: Credit scores are only one component to like debt ratios and down payment aspects of the transaction. A lender that's relying simply on a credit score to make an underwriting decision is playing with fire, and I think that's a lesson some of us have already learned. Again, you know, each lending institution has their own practices, but in general, I think the consensus is don't rely on simple credit score.

If you've got a 620 credit score like Maurice says, you know, that's a symbol of exercising caution. Well, I can tell you there are good borrowers out there with credit scores below 600, that if you take a look at the whole picture, and you look at the mitigating circumstances that drove that score down, they're good risks. Secondary programs allow things like that.

MR. EARL: However, at the same time, here is something that I know what's happening right now in this industry. It happens before the loan even gets to the lender. The loan officer is immediately asking for permission to pull a credit report to give a credit score and making a decision, a determination right at that point, as to whether they are even going to take this person on as a client.

No questions asked with respect to why explanations of derogatory credit, but just based upon this score under the guise of saying, "I'm asking for this so that I can determine what loan product to put you in." However, when the score comes back for something less than what they think is going to make the cut, the next word is "next."

Okay? 513 is where that particular one goes.

Now we found this out by doing some mystery shopping. Okay? In particularly, and this is down in Florida, but it is widespread practice across lenders, it is beginning to happen because quite frankly --

MS. HEUER: Are you talking about pre-qualification?

MR. EARL: Pre-qualification, that's exactly right, but it's a very efficient process.

MS. HEUER: Mm-hmm.

MR. EARL: However, it is clearly discriminatory.

MR. SIMS: Florida also is one of the hottest sub-prime markets in the nation just as a footnote.

MS. GRIFFIN: I'd like to just make a couple of comments. In working with thousands of home buyers, this credit score issue is a significant issue. It really is. People, even before they begin going to realtors or lenders, they are aware of the credit score. This is a big issue with Fannie and Freddie.

It really does -- you know, when they say something, it impacts the lenders. It impacts the home buyers. It impacts everyone.

You know, just to sort of tag along with a lot of the things that Maurice said, from a community standpoint, we are losing a lot of people to the sub-prime mortgage brokers, who are out here, who when a person has a small credit issue and could serve to work that credit issue out you know, over a period of just a couple of months, they have a loan officer who is telling them, "Look I can get you into a home right now, you know, but you've got to pay three and four extra --"

Well, we've even had people who have paid eight points. Those are the people that -- eight points and three percent interest rates. I mean those are the people that David and those are working with and should address.

This is a problem and minority communities, particularly the African American community and the Latino community are targets for this type of lending. You know, certainly where the credit score is concerned, that credit score is too low.

A lot of lenders, a lot of loan officers -- we even look, quite frankly, at credit scores ourselves. You know, because we are so aware of what Fannie and Freddie are looking at where the industry is going. Really, I mean your commission -- this would be a wonderful task for you all to engage because it will impact the home ownership in this country.

MR.MCKETHAN : I'm not sure I understand, when you say sub-prime rates. Are you talking about sub-prime rate with interest rates that are penalty-like?

MS. GRIFFIN: Yes, exactly.

MR. MCKETHAN: Okay, so if I get a three percent interest rate from a -- and I'm the institution, I have to pay like you said, eight points?

MS. MAXWELL: Well, no, it'd be a 3 percent add on to today's market rate.

MR. MCKETHAN: Oh.

MS. GRIFFIN: Yeah, exactly.

MS. MAXWELL: Market rate is sitting at a half, if you're talking about --

MR. BAER: Sometimes it's termed predator pricing.

MS. MAXWELL: Right.

MR. BAER: There's another development in the industry that I think is very worth while mentioning to this group, and that is the introduction of automated underwriting practices both through Freddie Mac and Fannie Mae.

I can cite examples where we've had borrowers approved at my company with credit scores in the 570s and the 580s, have gone through these automated underwriting systems and had been approved for loans sold to Fannie and Freddie. Okay?

I'm talking about fixed rate, prime pricing, 6 1/2 percent, zero point type transactions. So there is some development going on, that in, you know, in the beta testing, took place about 3 years ago on the desktop underwriting system and now is utilized on a very widespread basis across the nation.

Not every lender's out there is subscribing to it. So they're relying on people that bring poor judgment to the equation. So there is development taking place on the positive side.

MR. SIMS: Any other -- yes? Ki-Taek?

MR. CHUN: I have a question, please. To what extent is that accessible to the data which you mentioned, that is the loan officer's conduct and the use of credit scoring, and then given I presume it is. I presume he has limited access. Do you have any suggestions as to how we, for instance, chance of absence of penetration?

MR. EARL: Well, the only public data set, and this is the best set of data available, the HMDA data. HMDA data is limited in what it can tell you. It can tell you essentially race, geography, income of the applicant, geographic location of the property, and the action taken on the application, but it gives you no qualifying information, not the LTB or the loan to value or the housing ratio, the debt to income ratio, nor the credit score.

So to that extent, the best that you can do with HMDA data is to do studies with respect to what the broad lending patterns are by a lender.

You can't come to any conclusive decision with respect to discrimination in lending, but with respect to that, you can begin to analyze it, to determine whether it's smoke. Because generally where there is smoke, there is going to be some fire. While it may require further study because quite frankly, if you are doing a very good job of marketing and going and getting loan applications from a population that may have more problems than others, you will have a higher denial rate.

But at the same time, that means that you need to focus also on looking at what is the origination rate disparity because there's a good story there. As a matter of fact, the industries that we use, we have four of them. We call it the ODI, DDI, FDI and TDI.

The ODI is the origination break disparity between black and white. The DDI, denial rate disparity and the fallout rate, which is another very critical area, fallout in terms of HMDA. There's three categories of HMDA for action codes that does not result in a denial, nor an approval.

That is, the loan application was approved by the lender, but rejected by the applicant. Or the loan application was withdrawn. Or lastly, the loan application was incomplete. We sum all three of those action codes together to call it fallout.

There's a serious story that can be told by analyzing fallout because it may ask questions with respect to quality of assistance. It may have questions with respect to steering, with respect to a lack of trying to help someone get a loan.

But when you look at the whole picture, you begin to get a sense for what is a lender doing and where, because I tell you that the view that you get when you look at the NSA level is one thing. When you begin to look at the county level, it's another. When you zoom in and look at the central city level, it's even more dramatic.

So while many of the studies for purposes of ease will focus on MSA, when you zoom in and look at the city, that's when the story really is being told.

For instance, 30 percent minority for the Washington, D.C. MSA is a far cry from the 50 percent minority in the District of Columbia or 50 percent in P.G. County. Okay? So if you look at P.G. County versus looking at D.C., versus looking at the Washington, D.C. metropolitan area, phenomenally big, different story.

MS. HEURER: What was your TDI?

MR. EARL: Oh, TDI. I'm sorry. Good Ann, you're listening. TDI is the total disparity index. Okay?

MS. HEURER: Okay.

MR. EARL: So it's the sum of all three of them. We've basically come up with this methodology to use to do a comparative analysis of lenders.

MR. SIMS: Jody and then David.

MS. WILDY: I just have a question. In terms of credit scoring, are most of these statistics based on first time home buyers or is there any -- or is it just in terms of whether you're purchasing your second house or whatever?

MR. EARL: It doesn't matter. It doesn't matter.

MR. BERENBAUM: Freddie Mac has just completed a report, which I think they have released or about to release. It looks at credit scoring, but it analyzes as if in fact credit scoring was to be implemented hypothetically, what would be the impact both based on income as well as based on race? It's a fascinating study that was presented at -- or at least there was a preview of it at the National Fair Housing Rights Meeting.

But that is a response to your question, and it's going to be a fascinating report on what hypothetically would be the impact ---- rolled out. There were many different levels to it, you know, depending on if you were looking at race or income. In some cases expanding opportunities.

MR. EARL: Well, the issue there is though, I mean we have to look this at a broader setting. If you are the last hired and first fired. If you've been disenfranchised for 400 years. If you have lack of an opportunity to get a decent education and now all of a sudden we get to a point in time where we can use technology to come up with a score, all of the baggage that you brought to the table is going to still be with you when that score is taken.

So unless there's some intervention to again to realize that it's broader than just a score or broader than just the issues with respect to loan underwriting, that people are dealing with. We're dealing with people's lives and we're dealing with their homes. We're dealing with how they develop and where the kids go to school and what kind of police protection's going to be involved.

So it's a lot broader from a social perspective when we try to reduce it down to a single score that may be flawed, particularly if it's going to bring into focus the number of inquiries, or bring into focus the type of credit that someone has.

For instance, finance companies credit is deemed less desirable than non-finance company credit. Well, if the only company that's around in your neighborhood is a finance company, that's where you're going to get your loan. So you automatically have some internal, intrinsic things that are going to be going against you, without your ever even knowing it.

MR. HARVEY: Even absent of credit scoring, you have those factors that are coming against you, and that's what I mean when I say that financial institutions take people as they are. If they're carrying that kind of societal baggage with them, that's what we're looking at it.

MR. SIMS: David saying that credit scoring in and of itself -- experience has been somewhat problematic, that you have to look at it more holistically if you're going to do a more accurate assessment and not put yourself in a position.

SPEAKER: Don't lead them blind?

MR. SIMS: Yeah, exactly.

MR. EARL: Well, one of the last comments that I have to make is to do a study of who owns these sub-prime lenders. Okay? Many of them are owned by our major banks. So we walk into a room on one day, and we have, you know, the person with the nice suit on, but around the corner, they own Nations bank Credit or Fleet owns Option One out of Los Angeles, which is a sub-prime lender.

Weyerhauser was sold out to a company called WMC, which is a sub-prime lender. CIT is owned by Chemical. Chemical also owns, and Travellers owns a piece of

Commercial Credit. Okay? So we have one face with respect to the A lender, but that many of these A lenders also own B and C and we saw where one lenders rated the Z loan.

SPEAKER: What is that?

MR. EARL: That's the loan for anybody that's got a heartbeat. It exists, but the question was at what rate. Okay? HMDA data again can't even get you to that.

MR. SIMS: Are there any other questions, comments, issues that?

MR. SILVER: I just say watch the Federal Reserve Board because over the spring they asked us, we're thinking about doing a new proposal for HMDA. What are your thoughts about HMDA data? NCRC said, "We'd like to see the annual percentage rate on the HMDA data so you can get a sense of, you know, prime lending versus sub-prime lending," which we can't really do right now through our studies.

We also would like to see the

credit score on the HMDA data. So our minorities with the same credit score as whites are being treated the same. So it may come out in the fall with a proposed rule. So, you know, I would invite U.S. Commission of Civil Rights to monitor that and to get involved in that process.

MR. SIMS: Thank you very much. Thanks to our panelists. Thank you for those that took time this morning with other hearings and things going on in the Washington area to be with us. Let me say that the State Advisory Committee will be meeting in September.

We will take forward the recommendations in terms of follow-up issues for the initial report and that we will be issuing, as I said, issuing an addendum to the report that based on the feedback information that was submitted to us and shared with us today. There being no other business to come before us, I'll call this meeting adjourned. Thank you very, very much.

(Whereupon, the PROCEEDINGS were adjourned.)

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In The Matter Of:

RESIDENTUAL MORTGAGE LENDING DISPARITIES IN WASHINGTON D.C.

August 6, 1998

Beta Reporting
910 17th Street, N.W.
Suite 200
Washington, DC 20006
(202) 638-2400 or (800) 522-2382

Original File AA1CIVIL.TXT, 156 Pages
Min-U-Script® File ID: 3936184807

Word Index included with this Min-U-Script®

DISTRICT OF COLUMBIA ADVISORY COMMITTEE
TO THE
U.S. COMMISSION ON CIVIL RIGHTS
RESIDENTIAL MORTGAGE LENDING DISPARITIES IN
WASHINGTON, D.C.
624 9th Street
Washington, D.C.
August 6, 1998

Page 2

PROCEEDINGS

MR. SIMS: Good morning, I am Steven Sims and I am the chairman of the District of Columbia Advisory Committee for the U.S. Commission on Civil Rights. On behalf of the Advisory Committee, whom you will meet in a moment and commission staff, I thank you for your interest and attendance at today's press conference and hearing on residential mortgage lending disparities in the District of Columbia.

A quick announcement for those of you that might not be aware, we do have materials in the back on the table, including my opening remarks for your review and use.

Our 1996 report on the disproportionately smaller share of loans and loan amounts for minority applicants versus non-minority applicants is of critical concern to the citizens of the District of Columbia and their fundamental understanding of equal opportunity and the concept of civil

Page 3

rights.

Were loan denials a matter of too many unqualified people soliciting loans or a lending system at that time, afraid to provide credit to minority borrowers? A further concern raised by the data and experts we talked to, noted a possible link between numbers of loans denied minority applicants and the specific track wards where those borrowers wanted to buy.

This questions the marketing application and underwriting criteria used by mortgage lenders in the District of Columbia. We want to spend time this morning talking about where residential mortgage lending is, what direction it's headed, and as we strive to ensure all our citizens, regardless of race or ethnicity, the chance to claim the American dream.

What I'd like to do is start by making several major introductions, first introducing those of you that might not be

Page 4

aware, what is the D.C. Advisory Committee and its relationship to the U.S. Commission on Civil Rights?

The U.S. Commission on Civil Rights is a fact-finding agency within the executive branch of government. The Commission has established advisory committees in each state and the District of Columbia, with members appointed by the commissioners and those of us up here serve without compensation.

Our function is to receive reports, suggestions and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the advisory committee and to use this information to initiate and forward advice and recommendations to the Commission on Civil Rights matters occurring in our jurisdiction.

The report we are releasing today has been received by the commissioners, who

Page 5

unanimously accepted our report for publication. I'd like to also now go around the table and have my colleagues introduce themselves. We can start on my right with John.

MR. TOPPING: My name is John Topping. I've been a member of this site for a number of years.

MR. MCKETHAN: My name is Donnie McKethan, and I too have been a member of the committee, I guess, four years.

MS. HEUER: My name is Ann Heuer and I've been a member for five years, and was here at the time that we did this report.

MS. JONES: Good morning, my name is Lisa Jones, and I've just been a member for the last year. I reside here in the District in Southeast Washington.

MS. KRUVANT: My name is Charito Kruvant and I've been a member of the commission for the last six years, and I had the opportunity to be the chair while

Page 6

everything was ongoing.

MS. BROWN: Rachelle Brown, this is my first term.

MS. WILDY: Jody Wildy, this is my second term.

MR. SIMS: Let me note at this point of the hearings, data collection analysis and the report itself were completed under the outstanding leadership of my predecessor, Ms. Charito Kruvant.

As a member of her committee and her success in the chairperson seat, I want to acknowledge Charito's skills as an organizer, facilitator, spokesperson and leader. Those skills really made this report possible. I'd also like to make clear that even our advisory board fell prey to the government bureaucracy of hurry up and wait, which is responsible for the lengthy time between this document's completion and its release here today.

It's also important that I

Page 7

acknowledge those former advisory committee members, who were intimately involved in this lending disparity report, but are no longer on the committee, Mari Carmen Aponte, Laura Chin, Yetta Galiber, Jose Gutierez, Rita DiMartino, Clifton Smith, Malcolm Stubblefield and Jeffrey Weintraub.

Finally, I want to strongly and enthusiastically acknowledge the staff of the commission for their support, guidance and assistance in the research, development, writing and publishing of this report. My particular thanks to John Binckley, Edward Darden, Ki-Taek Chun and especially Marc Pentino for their energetic and passionate commitment to protecting the civil rights of all the citizens of the District of Columbia.

Let us now get to the business at hand: The past and present patterns of residential mortgage lending disparities in the nation's capital. As background, our project began in 1993, after the committee

Page 8

observed disparities in lending rates to minority communities throughout the District.

In the summer of 1993, various articles in The Washington Post alleged a pattern of disparate lending to minorities, which it tracked by specific wards. In 1994, the committee held a fact-finding meeting with experts in the fair lending field and government officials, to get a sense of what was happening in the District. At our forum, various community advocacy groups offered their analysis of lending patterns in the District.

Throughout the next two years, as the committee prepared its report, it gathered follow-up information, solicited input on the report from lending institutions, government agencies, and community organizations, and monitored additional reports on disparate lending. When the report was completed, it was presented to the commissioners, who approved

Page 9

its release and publication.

Let me say up front before I ask Charito to share a summary of the report's primary findings and recommendations, that while the committee is aware of many changes in the mortgage lending arena, which reflect movement toward providing equal access and opportunity to purchase a home in the District, our findings were valid and some of our recommendations are still necessary.

Following Charito's statement, I would like to move immediately into the panel discussions, which will provide us a chance to learn about developments since our fact-finding meeting, in the area of fair lending enforcement, industry efforts to improve lending to minority communities, and other new issue areas.

We do plan on, one, providing a Q and A period following the panel presentations, so that the press and the audience, as well as other advisory committee

Page 10

members can raise any concerns, questions or issues they might have. But we do plan on providing the commissioners with an addendum to our report, with the information we gather today. With that, let me turn it over to Charito for her statement.

MS. CHARITO: Thank you for the opportunity to spend some time with the committee members, and at the same time be able to share some of the findings and recommendations of the report.

Before I do so, I thought it would be worthwhile for me to both express my appreciation to the staff that supported us and also to take a minute or so to remind how extraordinarily both interesting and complex it is to do the work of civil rights issues within the District of Columbia.

When we think about issues of minority and we think also about issues of the District Columbia, our framework of reference has to change because we,

Page 11

minorities in the District, are not minorities in the District. So I think it's about time that we update our language and our terminology. It's important that we look at it from a different perspective.

It has also, during the period in which I was chair, became critical to me to understand both how complex the federal regulations and the agencies are in supporting civil rights issues, and how unsupported the staff of the commission for civil rights is to be able to tackle such complex issues and some complex documents.

So not only my thanks to the staff, my admiration to all of you for continuing to do these complex tasks. Most of our research during the process was both secondary research. It was also the kind of process that we knew much needed to be done and we needed to rely, not only on volunteers, but on a very, very limited amount of staff that the commission has.

Page 12

So if you find certain flaws in the staff, yes, it's because of process and it's because of the complexity of the subject matter that it will require to be fair to the issue. It will require a much appreciated staffing pattern to be able to do these tasks.

So to the ones that were in the past, supporting these, particularly to Mr. Betino, thank you for not giving up. I think issues like this — once in a while, we need to take the time and to say — and also to my colleagues, this was not an easy task because the answers did not come as clear as on a black and white, but the issues of civil rights right now are quite gray in our area.

Some of it is connected to legalities, but much of it is connected to attitudes. So we spent many hours, not only learning of the facts, but also trying to provide a new frame of reference under which some of these issues need to be looked at.

Page 13

Many, many times we did not agree. So in some instances we agreed to not agree.

As it was mentioned before, these tasks started in 1993. Now we are in 1998. So one, also of great importance, is to know while we finally do have a printed report, I think it's important to notice that it might be no longer dated document. Much of the information is no longer crucial because both the economy in the country has changed quite drastically. The rules and regulations have changed quite drastically.

Also the competition within both the banking community and other lenders has changed. So the picture under which we prepared this document, and the picture of today, I think, has changed quite drastically. As you maybe hear some of these findings and some of these recommendations, it will be important to note that much of these needs to be constantly updated.

What has not, I think, changed too

Page 14

drastically is quite frequently our attitude about learning and about educating ourselves. I think much of that still needs to be done. So let me now share with you a couple of findings that we did come up in the report.

My assumption is that most of you have hard copies and if you are interested, you will be able to not only read the document, but we are available to discuss thoroughly each one of that. But as it is right now, what we did find in the reports, the finding number one, that there are disparities in loans to minorities and non-minorities in D.C. However, these are not conclusive evidence of discrimination.

What we were looking at were patterns of discrimination, consistent practices and systemic practices. What we did here about anecdotal information and specific cases, we looked at the evidence of patterns or systemic issues and we could not really demonstrate that there is.

Page 15

So we wish we could come up with one of those big, lambasting things that will bring us to the news today, but we did not find. I think we owe it to ourselves and to the public to say that. But there are some recommendations that I think are quite valid.

One, the federal and the District government should collect and analyze data needed to address whether discrimination exists and who, if anyone, is doing it. We're not saying that it's not there. What we are saying is we did not find the patterns that either the press or the other information indicated.

The recommendation number two, lenders should reveal their operations and assure themselves that they're not discriminating and making corrections if needed. We do believe that it's crucial to the institutions that are providing the services of lending and that they're in the business of learning, they have to have an

Page 16

infrastructure and internal procedures and processes under which they're consistently monitoring.

I think part of the great success of the next step is probably relying on it in that way. Because if we're going to rely on the federal government or public agencies to be doing the monitoring, we note that it's taken from 1994 to 1998 to publish 26 pages of the document.

Recommendation three, under finding one, lenders should publicize their availability of loans to all communities as well as their efforts to promote their lending. That's something that we did find a tremendous lacking. There was not really easily available information which the public could easily understand.

We do know the rules and regulations could be complex and at some point, cumbersome, but the individual that's both attempting to borrow money needs to

Page 17

understand it in their way, in a simple manner. We believe that the banking community was not at that stage, doing that efficiently or effectively.

Finding number two, D.C. regulatory agencies currently play only a minor role in fair lending. I think since 1993 to today, the District of Columbia has gone through a major metamorphosis and we do see a change, very positive change in which the city is attempting to govern the city, but there's still quite a lot to be done.

We, for as much as did some changes recently, still believed that they're not really organized and they're not supported in a fair way, issues of fair lending. Recommendation number one of that finding, that the District should increase the oversightability of the regulatory agencies in this area.

It sounded to us or it looked to us, not only much needed to be done, but some

Page 18

of the basic internal framework and infrastructure to be able to do that, needs to be thought through. Not only the staffing issues need to be looked at, but just how and who and when needs to be organized.

It seemed to us that there was good attitude. There was good intention, but it just wasn't there in the way that the citizens deserved to be served.

In the finding number three, the recommendation that indeed both the banking community and the community at large should organize itself to be able to coordinate or partner, so that the information can go way beyond the banking establishment to the local level. There were a couple of specific organizations that we found that were very helpful in providing that support.

Finding number four, government efforts to detect discrimination are not adequate. From our seat, that probably was the saddest thing to know, that we could see

Page 19

that the press could write up.

In 1994 they did so, a series of documents that were touching and I think they brought up a reality that was occurring at another level. It was very specific.

On the other hand, we really were able to notice that the government, both the federal government and the other agencies are not really organized and they're not providing systemic efforts to detect discrimination. So if we're serious about it, I think it's important that much of that needs to be done in an organized fashion from the federal government and the District level.

The recommendation number one, coordination between federal and D.C. agencies and private groups should increase and their roles better defined. Recommendation number two and finding number four, all fair lending agencies should report periodically to the public on their

Page 20

activities.

I think for us to be able to clearly get to the next step, not only do we need to know what's going on, but we really need to inform ourselves on what do we do and how do we it? We do believe that there are certainly very good best practices that some of the banking institutions are providing it. Some of them are part of very well kept secrets.

I think those efforts need to be publicized and we also do note that some practices are occurring that need to be known so that others learned to train their stuff, particularly the banking community. If they're fair to their employees, they need to train them.

I think much of the discrimination that is occurring, is both out of ignorance and out of systemic approach on the training on both training of their own employees and training to the public. So that we're all

Page 21

aware on that process.

That's pretty much the summary of both my findings and recommendations. What's more, this is the kind of a process that might not bring us to the first line on the post, but I do think it's important that we did it in a systemic way and an organized fashion. Thank you again to the staff and to the group.

MR. SIMS: Thank you. We had planned on having a Q and A period here, but again because we want to be fair to all sides and we want to both be able to talk about where we are today and allow an update in terms of changes in the industry.

We've put together a couple of panels, one, representing some of those groups that monitor issues of fair housing in the District, and then also get an industry perspective from some of the lending institutions and representatives. If I could ask the first panel, David Berenbaum and

Page 22

Joshua Silver to come up.

While they're coming, let me quickly mention that Jay Anthony Romero, who is the superintendent of the D.C. Office of Finance and Banking Institutions, is with us. If you could stand? Charles Lowery, general counsel to that agency are here. So that if there are any questions that you would like to raise at some point also with some of the monitoring and enforcement, we do have representatives from the D.C. government here and you're certainly welcome.

Let me turn to the panel. The title of this panel is Statistical Analysis of the Home Mortgage Lending. We've asked David Berenbaum, the Executive Director of the Fair Housing Council of Greater Washington to give us an update in terms of where the industry is and how it is performing, and followed by Joshua Silver, Vice President of Research for the National Community Reinvestment Coalition.

Page 23

I'd like to hold off questions until both panelists have presented, and then I will open it up to the floor for questions or comments, both from committee members as well as press and other invited guests. David?

MR. BERENBAUM: Thank you, Mr. Sims, members of the commission, as well as guests in the audience. The Fair Housing Council of Greater Washington is a not-for-profit fair housing organization, serving not only the District of Columbia, but the entire Mid-Atlantic region.

We have a host of very sophisticated private enforcement, education and outreach, voluntary compliance, and most recently planning activities that we had been conducting in cooperation with the entire community.

I mean community as policymakers, industry leaders, as well as grassroots civil rights organizations and groups dedicated to

Page 24

expanded equal housing opportunity and home ownership opportunities, not only in the District, but in our nation.

I have been the Executive Director of the Fair Housing Council for the past three and half years. For your information, prior to that, I served as Executive Director of Long Island Housing Services, another civil rights organization for eight years. I am currently second Vice President of the National Fair Housing Alliance, who is committed to the realization of fair lending across the nation, through our 70 members.

The Fair Housing Council, three and a half years ago, began a re-engineering of how we do business. We made a very simple theory, a philosophy of how we do business in the community. The philosophy was that many of the issues that we're dealing with today go beyond a simple report, go beyond a jurisdiction's boundaries.

In fact, to look at lending, one

Page 25

must also look at sales practices in the community, at insurance practices in the community, look at models that are successful, and yes, look at what's failing in an objective and realistic way so that we, as policymakers, you as a civil rights commission, can move ahead.

Three years ago, the United States Department of Housing and Urban Development began, through its consolidated planning process, a process called the Fair Housing Planning requirement. Every entitlement community, which receives federal support, including the District of Columbia, is required to produce a document called, The Fair Housing Planning Analysis of Impediments.

The report's goals, frankly, are very similar to what the Commission was trying to accomplish and has accomplished by calling attention to the lending issue in the report being discussed today. HUD mandated

Page 26

that communities must objectively, fairly, inclusively work to examine the extent of the housing discrimination problem in our area.

That jurisdictions over the next 5 years must develop Fair Housing Plans reasonably taking steps to overcome the impediments to Fair Housing choice that are documented in the community. The Fair Housing Council approached the Metropolitan Council of Governments in the Washington D.C. area and we suggested a regional approach to this fair housing planning process. What developed, in fact, after that over a two year period, has become a national model.

One of the issues that we addressed was fair lending practices and lending discrimination. This report was released approximately a year and a half ago, and it involves both a regional planning document, as well as a local document specific to the Washington, D.C. community.

One of the issues that was

Page 27

discussed was, frankly, the limitations of Home Mortgage Disclosure Act data. Across the nation, there has been debate as to the meaning upon the data. Is it a true way of monitoring performance with regard to compliance and fair lending issues?

Certainly, as I said, it is an indicator of disparities in our mortgage marketplace. If you look at upon the data, not only from the period that was examined in the reports included in your document, but also since then, the disparities continue east of 16th Street. But who is injured by this? In fact, the entire District of Columbia community.

Every act of discrimination has an economic impact on the District and frankly, every jurisdiction around the nation. We as a community cannot tolerate these acts of discrimination.

We were asked by municipal leaders, by lenders and others, to assess the extent

Page 28

of the problem of lending discrimination, but also to look at other areas, a total approach to fair housing, to do statistically relevant audits, fair housing audits, using the process of match-pair testing, and in partnership with industry and in partnership with government, release the results.

So the results that have been done in the past that prove controversial, the results of the Fair Housing Index Project, as this effort became known, became, in fact, building coalition, building bridges. That is actually affirmatively furthering fair housing today.

I say you cannot look at lending issues without looking at related housing issues because, in fact, as everyone in the real estate industry knows, the industry is folding in on itself. Today, there are national mega-corporations that are promoting one stop shopping. You go to your real estate office or you go on to the Internet.

Page 29

Not only can you look for your home and purchase your home, but also you can get your engineers' report. You can get your insurance product. You can get all of your shopping done by simply dealing with one location. That is a major change in our marketplace. It requires that we look across all issues. The Fair Housing Index project did that.

We looked first at rental practices. That report was celebrated and used on Capitol Hill as a national model of how to build consensus. We found in the District of Columbia, looking at race and national origin, we did an audit looking at the Latino community in particular, 28 percent of the time, our protected testers encountered disparate treatment in their search for an apartment.

But then we moved on and we looked and released a report in June of last year, looking at sales practices. In fact, a

Page 30

statistically relevant report looking at discrimination in the real estate industry, realtors, licensees and others have never been done before in this area; 100 match-pair tests were conducted.

While we found overwhelmingly there was compliance in our marketplace with fair housing laws, we reported the unfortunate fact that 28 percent of the time, discrimination was taking place on the basis of race and national origin.

The most frequent form of discrimination is directly relevant to what we are discussing here today. That African American and Latino testers, when they approached real estate offices to purchase a home, more frequently were asked, have you been prequalified for a mortgage, or how is your credit?

Then told that the real estate professional could not take them out to see housing until they produced a credit report

Page 31

or were prequalified either by a broker in house, or through mortgage professional or institution or profession out of house.

This, in fact, was shocking because the comparison, white tester, was not told that same information. They were immediately shown housing again and again, and told, we'll work with you to qualify for that mortgage product.

We then looked at disability issues and we looked also at familial status issues in our report. Then this year, for the first time in the nation, we released the Fair Lending Index.

There has yet to be a consensus on fair lending, marketing and fair lending testing methodologies, but frankly we're more in agreement than disagreement. The remaining issues, at the very least represent, where we disagree, poor marketing practices, even if we won't call them discrimination.

Page 32

We looked at our three jurisdictions because we only looked at regional lenders in our area. There were over 45 at the time that we began the lending index study. All of our studies, all of our testers were upper middle income testers.

We did not want to confuse the issue of poverty and race in our nation, which is a very real fair housing and civil rights issue, but we wanted to make the point that was not the issue with what was going in the index project. There was only one issue, race or national origin, that we were controlling for.

We sent out 150 match-pair testers throughout our region. In fact, the results were quite striking. 41 percent of the time, we encountered either overt or subtle forms of discrimination.

I agree, as what was said earlier today, the majority of the time, we were simply encountering practices that were

Page 33

either so sloppy or there was a failure, in fact, to monitor practices within a particular mortgage corporation or entity.

That, in fact, they rised to the level of fair lending discrimination. But there were many subtleties in the report as well, overt acts of discrimination.

For example, when our Latino testers were calling within the District of Columbia, almost 100 percent of the time, they were asked about their credit before they even were able to make an appointment, but our white comparison testers, over the phone, had no difficulty whatsoever in fact gaining an appointment and accessing mortgage information. Now that did not happen all of the time, but it was a very strong finding in the District of Columbia.

As well, we noted that with regard to our African American testers, there was a propensity to recommend FHA mortgage products. Now the FHA mortgage product is a

Page 34

wonderful loan product.

It does expanded housing opportunities across this nation, when other GSAs, such as Fannie Mae and Freddie Mac have not been doing enough to provide similar products that, in fact, our minority communities and neighbors can access. So I am not criticizing FHA, but I am criticizing the mortgage representatives who are using the product, vis a vis, to create steering in our nation.

The Home Mortgage Disclosure Act data in this area conclusively shows that regardless of income, African Americans are more likely to be steered to FHA mortgage products. I have no problem if it's the right product for someone. I do have a problem if the same choice is not offered to all people based on their individual qualifications.

In the District of Columbia, we also have other issues. Obviously, the issue

Page 35

that HMDA data documents the most is the issue of northeast, southeast, versus northwest, southwest, the fact that disparities routinely are there.

We have issues, though, where individual applicants from mortgage products are denied based on the characteristics they themselves bring to negotiating table or mortgage application form, regardless of which area they live in the District of Columbia.

Now with all of this going on, there is a lot also happening that's very positive. I noted the financial institutions who are included reports in or responses in the report. They should be celebrated for the positive steps that they are taking to expand home ownership opportunities, but fair housing alone is not an issue about marginal loan applicants.

It is not an issue about CRA. It is simply an issue about equal professional

Page 36

service and equal treatments. We have begun partnerships with a number of lenders, and we're negotiating with more. It's a self test.

This is a major, major development in this community. It serves as a model for the nation. It's called our fair housing partnership program.

It represents the corporate commitment, the redefining of philosophy to say, not only will it reduce risk, but if we are going to survive into the next century, by 2010, when everyone says the demographics will change in our nation, and they will, we had better re-engineer right now to make sure we're ready to do business with our future customers and consumers.

In fact, that simple philosophy is winning. Over CEOs in both the real estate industry, as well as the lending industry, to take a total approach to fair housing compliance.

Page 37

The Fair Housing Council recently filed a complaint, which I think is one of the most significant fair housing lawsuits filed in the nation. We filed a fair housing lawsuit against CAP Cities Mortgage Corporation. The Washington Lawyer's Committee for Civil Rights is representing us, with also a pro bono law firm.

This is the very first law suit in the nation arguing reverse redlining. Not saying that they are trying not to do business in a community, but in fact, they are targeting. You've all known the language predatory in lending. That's what this case is all about.

It's not like me to read when I speak publicly, but it's also unusual to have such striking language in the first paragraph of a fair housing complaint. The complainants in this case come from the District of Columbia and also the urban core of Prince George's County.

Page 38

We looked at where, in fact, CAP Cities is exclusively doing business. It is racially and economically impacted areas of our community. Here we go.

"This complaint arises out of a pattern or practice of predatory and racially discriminatory lending by defendants in the Washington D.C. metropolitan area. While they masquerade as bankers, defendants systematically defraud innocent individuals out of their money and property.

They accomplish their illicit purposes by means of fraudulent loans obtained through unscrupulous methods. Using these loans, defendants extract unconscionable and illegal fees from their victims, until there is no money left to extract. They then expropriate their victims' business properties, churches and homes before closures, which the loans were specifically designed to facilitate."

This complaint is available from my

Page 39

office and I can leave this as an exhibit today.

The Fair Housing Council, in

cooperation with the District of Columbia Office of Housing and Intergovernmental Affairs has begun testing in the District of Columbia. We are looking at discrimination through testing in race and also various national origin groups. We're looking at rental.

We're looking at sales, and I have no problem to publicly state that we are looking at predatory lending. It's particularly in northeast and southeast Washington, D.C. The recommendations included in the District of Columbia analysis of impediments document are very similar to that included in your document released today.

The future is a great opportunity, because I have seen such sensitivity by a majority of the large volume in mortgage

Page 40

companies, as well as banks, to do the right thing, to work hand in hand, to move beyond us and them, to say, how can we best serve the community?

I'd like to conclude with a brief statement about the problem of mortgage insurance, homeowner's insurance in particular in our community. The Fair Housing Council recently has filed three complaints to the United States Department of Housing and Urban Developments.

One of the companies involved will not even insure homes in the District of Columbia that are less than a quarter of a million dollars in value. Where are they insuring in the District of Columbia with that policy? Other companies have had policies in the past, many of them have begun to change them, looking at the age of housing or construction of housing.

Age of housing is not a valid underwriting issue. You cannot have

Page 41

arbitrary standards. For example, we will not insure homes that are more than 30 years of age because what does that do to our urban communities around the nation?

To their credit, after complaints were filed against Allstate and State Farm and also with regard to Nationwide Insurance, those companies have abandoned that discriminatory policy.

Other policies have to do with rating territories, and a belief that higher risks exist in certain communities. Sometimes that is not a corporate policy in underwriting, but it is a practice exhibited by front line professionals, who may be independent brokers, whether they are the real estate industry, blending or insurance.

We are coming to a new point in time where there will be new and expanded responsibility and/or liability for wholesale operations. So parent corporations, such as Erie Insurance, who abandoned the District of

Page 42

Columbia because of regulatory red tape, yet they will insure for other areas. Then housing can no longer be tolerated. These complaints are pending.

The most serious threat, I think, to the wonderful, positive efforts that are taking place by lenders to expand home ownership opportunities today in the District, as well as by the many of the community groups that are working hand in hand with the lenders to do direct counseling, for example, is the fact where lenders, 5, 6 years ago, in a short period of time, began secondary review processes under regulatory pressure as well as with the desire to ensure compliance.

Today, where alternative means other than credit has been developed to qualify homeowners for mortgage products, the insurance industry as a whole is moving to credit as a factor for qualifying for homeowner's insurance. I say to you that is

Page 43

ludicrous.

If you look at insurance underwriting today, if you make two claims within a reasonable period of time, you're going to be cancelled. If you have a claims history, you are going to be cancelled. The argument being made is, if you have a poor credit history, you are more likely to make a claim.

This is no different, the disparate impact that was created by lenders, using credit, 6, 8 short years ago, than what the insurance industry is doing today. We as fair housing advocates around the nation are speaking out on this issue. We will be filing complaints on this issue. We are making friends among the realtors and I believe the lenders, to address this issue proactively. Thank you.

MR. SIMS: Joshua?

MR. SILVER: Yes, good morning. Thank you for giving me the opportunity to

Page 44

testify before you today. My name is Josh Silver. I'm the Vice President of Research at the National Community Reinvestment Coalition. NCRC is a CRA trade association of 680 community reinvestment organizations from around the country.

Our members include community development corporations, civil rights groups, and other neighborhood organizations, whose tasks day in and day out is to revitalize inner city and rural communities.

I was asked to present the findings of a report that we did with HMDA data from 1994 through 1996. The report is called, Who's Financing the American Dream? We took a look at lending patterns in the 20 largest metropolitan areas in the country. I hope you all have copies of the report, because I'd like to refer to tables during this presentation. Who's financing the American dream?

We decided to focus on home

Page 45

purchase loans, specifically, both conventional and government insured, rather than looking at all single family lending, which would include not only home purchase, but home improvement and refinance.

Obviously, very importantly, home ownership helps revitalize neighborhoods, gives people a stake in their communities, increases property tax revenues as home purchases and housing rehabilitation occurs in the neighborhood.

So that's why we focused on home purchase lending in the report. We took a look at six different indicators. The percentage of marketing practices, which could be measured by the percentage of applications received by blacks and Hispanics.

We focused on blacks and Hispanics in this study. How many applications a lender receives from blacks and Hispanics is a proxy for marketing because if blacks and

Page 46

Hispanics are applying to a lender, obviously they've heard about the lender somehow, through radio or through some other media, or through word of mouth or some other form of marketing practice.

We also took a look at the percentage of loans going to blacks and Hispanics than the percentage of marketing practices to low and moderate income borrowers, the percentage of applications that low and moderate income borrowers submit to a bank, the percentage of loans going to low and moderate income borrowers.

Then, last but not least, we had professor at the University of Minnesota compute, he calls it a discrimination ratio. He uses HMDA data and census statistics to determine if similarly qualified minorities that have the same qualifications as whites are being disproportionately rejected for loans from a particular institution?

Before I jump into how, kind of the

Page 47

individuals lenders fell out, that was just a broad description of the methodology that we used in our report. I'd like to draw your attention to this table it's, Home Purchase Loans to Minorities.

You'll see on the left most column, the 20 largest metropolitan areas in the country. Metropolitan area, that includes both the city and the suburb. So for Washington, D.C., we're talking about the District of Columbia and then Montgomery, P.G. County and Maryland and Arlington and Alexandria and other jurisdictions in Virginia.

What you'll see on percent minority, on that column, which is right next to the metropolitan areas, percent minority is actually the percentage of blacks and Hispanics that reside in each of the jurisdictions, and then percentage of loans in 1996, where the percentage of loans that were offered to blacks and Hispanics in 1996,

Page 48

and so on for 1995 and 1994.

Let's look at Riverside, San Bernandino on the top; 25 percent of blacks and Hispanics live in that metropolitan area. Incredibly, they receive 42 percent of all home purchase loans in that metropolitan area in 1996.

So if you go a little further across the row, and you see the column 1996 difference, in other words, the percentage of loans that were offered to blacks and Hispanics by lenders in that area, was 17.1 percentage points higher than in percentage of blacks and Hispanics that lived in that metropolitan area.

Orange County, you'll notice the first four or five jurisdictions are California jurisdictions. I sorted this table based on the difference between the percentage of loans minus the percentage of people that were minority in that area.

So in other words, Orange County,

Page 49

where it says 1996 difference, 5.7 percentage points more loans than there were minority residents. In other words, 23 percent of the loans in 1996 were to minority residents, and 17 percent of the population were minority in Orange County. You can see it's the same trend for 1995 and 1994 for Orange County.

Then you go down the list and you see Washington, D.C. as number ten. Actually, in kind of an absolute sense, D.C. is not doing terribly, but in a relative sense, it could be doing better because you'll see the non-metropolitan areas ahead of D.C. Some of the metropolitan areas don't have a high percentage of minority populations, but others do, like Los Angeles, Long Beach, for example.

Washington, D.C., 30 percent of the residents in D.C. are black and Hispanic. Our lenders offered 29 percent of home purchase loans to minorities in 1996, 31

Page 50

percent in 1995, and 27.87 percent in 1994.

In 1996, there was just about 1 percentage point fewer loans than the percentage of minority residents in the city. It was kind of similar for 1995 and 1994. So it's kind of a double story in D.C., kind of in an absolute sense, there's progress, but relative to some other metropolitan areas, there's room for improvement.

Then you look at the bottom of the page, and you'll see average for the 20 MSAs, and then for United States as a whole, there's 22 percent of the population in all the 20 MSAs were black and Hispanic. They got 21 percent of the loans in 1996 on average.

United States, 17 percent of population is black and Hispanic, and they received 14 percent of the loans in 1996. That's kind of interesting, kind of in rural areas and small towns, probably there's not as much success in reaching minorities as

Page 51

there are in the bigger cities. Perhaps the lenders are not as experienced in serving that market in rural areas and smaller towns.

Then you go into Table 2, and I do the same story for low and moderate income households. What's interesting is Washington, D.C. performs well on a relative and an absolute sense on this table. You'll see it's number two, right below Minneapolis, St. Paul. 37 percent of the population is low and moderate income in Washington, D.C.

In low and moderate households/families, we see 41 percent of all home purchase loans. In other words, 3.76 percentage points more loans than the percentage of minority residents, blacks and Hispanics in the city. You'll see for 1995 and 1994, 36.1 and 36.3.

Does that mean that we should rest easy? No, because this is home purchase lending. We should also take a look at home improvement lending and refinance lending.

Page 52

We should also take a look at the geographic distribution of home purchase loans.

This study focuses on lending to individuals throughout the metropolitan area and not so much lending in different neighborhoods. So we recommend additional studies looking at, as you did a few years ago, in lending and the different wards.

What's interesting in lending to income is on average, it's harder for lenders to reach low and moderate income households in proportion to their population. You'll see at the bottom of the page, on average 41 percent of the people in any given MSA, are low and moderate income, and 1996, they received about 36 percent of the loans, and a similar percentage of loans in 1995 and 1994.

So in other words, 10 percentage points fewer loans than there are low and moderate income households in any given MSA. It many areas, such as New York or some of the California communities, you have high

Page 53

cost of housing.

You have an affordability issue, but still, affordable home mortgage products should be developed so as to try to increase the percentage of loans going to low and moderate income households.

For the United States as a whole, that last row on the page, it's kind of interesting that again, it's about 40 percent of the people in the country are low and moderate income. They received 42 percent of the loans in 1996. It's sort of the reverse of the 20 largest metropolitan areas. Again, it probably is due to lower housing costs in rural areas and smaller towns.

Table 3, which I'll just quickly go through, is the denial ratios. That means how many more times are blacks and Hispanics denied for loans than for whites? You'll see D.C. is probably eighth on the list. In 1996, minorities were denied 1.73 times as often as whites. Happily, that's been going

Page 54

down.

There's 2.57 in 1994, 2.02 in '95,

1.73 in '96, but should we rest easy? No, because still minorities are being denied 1.73 times as often as whites. We do have metropolitan areas that have lower denial ratios.

Let me jump to how the lenders fell out in the District of Columbia. On pages 37 and 38 of the report, on page 37, it starts with the best lenders or the lenders that offer the highest percentage of loans to minorities and low and moderate income households, and then do the most marketing. We see the most applications from underserved populations.

Then to the lenders that are lowest on the table. You'll see that Riggs Banks is number one in the study. Russell Simmons will probably be happy about that. You'll see that Riggs took in, but for good reason, 71 percent of its applications were for

Page 55

blacks and Hispanics.

Remember, if 30 percent of the population in the entire metropolitan area are minorities. So Riggs is taking more than twice that, then offered 71 percent of their loans to blacks and Hispanics.

Again, for low and moderate income, 73 percent of their applications were from low and moderate income households; 73 percent of their approvals were to low and moderate income households. Low and moderate income households, as I said before, were about 37 percent of the population of the District of Columbia.

You'll see this DSC ratio. That was developed by professor Sam Myers at the University of Minnesota. A negative number means good news. It means, basically an absence of discriminatory practices. If it's above 1, it's a little worrisome.

What the quintile means, say the quintile next to the minority applications,

Page 56

quintile 5, that means it was the top quintile. That score for Riggs Bank on the minority approvals was in the top quintile of the lenders in our report.

You know you sort lenders into 5 different categories for the same number of lenders in each categories on each of the indicators. So 5 means a top quintile. So you have 6 indicators. You'll see that Riggs got a score of 30, which means that they scored in the fifth quintile. They got a score of 5 in each of the 6 indicators.

In 1995, they also had a score of 30. Interestingly enough, they did have to improve from '94 to '95. I believe the history was, is that in previous years there was a low CRA rating for Riggs Banks. Riggs did the work, and they improved their lending performance. That's what CRA fair lending laws are all about.

Riggs is a case study on how CRA and fair lending laws provide an incentive

Page 57

for lenders to serve people who have been traditionally underserved by financial institutions in the United States.

Then you can kind of see a little further down the page, your lenders, say percentage of loans being offered to minorities. Virginia First Savings Bank, 20 percent of their loans are going to minorities as opposed to a member. Then 70 percent of the loans going to Virginia First Savings Bank is like sixth from the bottom.

So you can see that there is a great difference in performance amongst the lenders in Washington, D.C. Further analysis and study should figure out why. It could have to do with their branch distribution network.

Actually, NCRC has the capability of putting nice maps where the branches are of the lenders. If the branches are in predominantly white areas, in the suburbs, you're not going to have a whole lot of loans

Page 58

going to minorities or low and moderate income people. If the branches are more evenly distributed throughout a metropolitan area, you will see performances like Riggs.

You also have to look at affordable mortgage products. Do the lenders offer affordable mortgage products with waiving some fees on a loan or a below market interest rate? One thing I'll brag about NCRC members here is, we have 680 members who work out partnerships with lenders to do affordable mortgage programs, that say, offer a one percent below the market rate in return for people going through home ownership counseling.

Marcia Griffin will be talking to you later about home ownership counseling efforts. But these types of programs get people ready to purchase their American dream, and the extent to which lenders have affordable mortgage products, you'll see some of that reflected in the performance of the

Page 59

lenders, on these charts.

I should also say that since 1977, community reinvestment organizations have negotiated over $1 trillion dollars, I'll repeat that figure, $1 trillion dollars in CRA agreements with lenders. These agreements commit lenders to offer loans and investments to low and moderate income areas and minority communities over a multi-year period.

Often this occurs during the merger application time. That's when CRA is enforced. It's one of the times that CRA is enforced.

A lender has to demonstrate to a federal regulator that it has a good community reinvestment performance. So lenders again have the incentive to work out these agreements with community organizations.

There was recently an agreement in the Midwest and Chicago with First Chicago

Page 60

Bank, filled $4 billion in loans to low income areas in Chicago. There was similar agreements with First Union here in D.C. a few months ago.

Continuing with this table, if you turn to page 38, you see the lenders that fall in the lower half of the table. For example, you have Citibank Federal Savings that offers 18 percent of their loans to minorities, has 17 percent of their loans to low and moderate income borrowers. Remember, low and moderate income people were 37 percent of the population in D.C.

So what is it about Citibank that they're not doing as well as some of the other lenders?

What this table enables all of us to do is to have constructive dialogues with lenders saying, okay, Norwest Mortgage Corporation. You got a score of 16 in 1996, and I see that you're offering 20 percent of your loans to low and moderate income

Page 61

purchasers, but a regional bank that has your same asset size, say, Countrywide Home Loans, is much higher up on the table. We want to work with you to get you to what Countrywide is.

In other words, if you show lenders that their peers with the similar financial capacity, similar assets, are higher on the table, and if there's a way to do this, and that you're willing to work with the lenders, that is the value of a study like this.

This gets you to the table and gets you past the accusations flying and get you to looking at the facts and figuring out how you can really, in a constructive way, improve lending performance for everyone's benefit, to revitalize neighborhoods and to pursue profitable opportunities.

Mellon Bank and First Union Bank have sold CRA loans to Wall Street. This is profitable business. So it's a win-win, revitalizes — I'll end on that. It

Page 62

revitalizes neighborhoods and it's profitable opportunities for banks, doing well by doing right.

MR. SIMS: Thank you. I'd like to, as chair, modify the suggestion I made initially, and open up for questions because I do have a couple myself. Also give Mr. Simmons a chance to — the acknowledgement of Riggs Banks performance.

MR. SIMMONS: That was a very impartial study. We looked at the numbers. They were obviously very excited and very gratified, and as I began to speak — it's part of the whole process that we ended back in '93, we did not pass the CRA exam and certainly that got our attention.

Mostly because we had just come out of almost going under, back in the real estate crisis, but since then, and when I get on the panel, I'll sort of address it. Residential lending is part of an overall strategy at Riggs, CRA lending. That's what

Page 63

I'm going to talk about, but certainly we thank you for the study.

MR. SIMS: Wonderful. I guess my first question is to David. In terms of the study that you presented, did you find or did you look into any new strategies or terms of training or orientation of employees that might assist them and improve the sensitivity, either in terms of racial sensitivity or whatever, that the institutions have implemented in terms of this evolutionary change that's going on?

MR. BERENBAUM: The study itself focused on actual practices at lenders mortgage bankers and brokers in the District and the surrounding areas. So that report itself really looked at what happens during a pre-application situation. You have a copy of the report to examine that aspect closely. Everything is charted out. However, one of the important goals of the Fair Housing Index Report was to begin dialogue.

Page 64

That has happened after each of the reports has been released. Not only was it a public education project, frankly, also it was an enforcement project.

We've just filed our first complaint to HUD against a Montgomery County lender, where in fact there's very poor Home Mortgage Act data and all of the tests corroborated the findings from the HMDA data, inability to access mortgage products, steering FHA products, differential terms, for example, with regard to the cost of the mortgage product.

We, since the release of the report, have met with approximately ten financial institutions or mortgage entities and it's given us a very interesting insight into the true best-efforts on the part of institutions to try to comply with the host of regulations and federal and state laws. What's clear to me is that there is lack of consistency.

Page 65

There's some institutions that frankly have a minimalist approach, where they will do just enough. For example, a two hour discussion of fair lending compliance is part of a broader discussion of CRA and related issues of lending requirements.

Whereas there are other institutions in our community, who are very proactive, and they bring in outside consultants and will spend up to five days in discussion groups with key management, developing what is a best practices approach, not only to fair lending practices, but related civil rights and diversity issues as well.

The Fair Housing Partnership Program that we have begun takes really what was the recommendations of the National Association of Realtors, and implements them across the board. We have been using this new project, not only to promote voluntary compliance with the law, but also with regard

Page 66

to settling cases that are actively on the enforcement side of the road.

Simply, that a company that is truly committed to a business practice of equal housing opportunity, as was said a component of being actually successful in marketing a community and realizing profit, will look at its internal practices, not only underwriting, but in retaining staff, let staff know what the company's commitment is to equal housing opportunity, to CRA and related laws.

They'll let the staff know there's accountability at every level to these laws and that this company is serious. When we settled the federal lawsuit against First Virginia Bank-Maryland, it was very heartening to hear the president of the financial institution get up and say to his staff, let me make it clear, we do not tolerate racial discrimination or any discrimination at this bank.

Page 67

I tell you, since then, we have yet to get another complaint against that institution, after the case that was settled. That is the kind of message that makes a difference, as well as having a diverse staff, that will reach out to the community, a multilingual staff, as well as having a board that is sensitive and diverse as well, which is another issue for financial institutions today.

The institutions in this room have a wonderful job reaching out to community groups, but that's not enough. You can have a policy in practice, but this is simply not about changing attitudes, it's about changing actions. There is liability if a manager in a particular branch or a particular telephone operation of an institution violates the fair lending laws, regardless of the corporate position of the lender.

That's where the self testing is so stimulating. It's being done on a widespread

Page 68

basis. I'm glad that we're going to be getting a dialogue with the Mortgage Bankers' Association and other associations, to talk about having a common theme. There need to be parameters.

I believe the parameters of my agency are first class in testing, but I know for a fact, there are private consultants and fair housing groups and other organizations around the country who are using all different methodologies.

The bottom line is we have to interpret the law in the same way. We have to interpret the regs in the same way. We have to agree what's a violation through self testing and the parameters of that, but that's the point we're getting to. That's how sophisticated the civil rights movement has become over the past three years. That's a marvelous opportunity.

MR. SIMS: Thank you. Any other questions? Yes?

Page 69

MR. TOPPING: I got a comment on a question. I appreciate very much the testimony that both of you have provided.

I found especially interesting the test you take, although I thought the mathematical precision was a little stronger than I was comfortable with, converted into the index, nevertheless I think there were some things that were fairly blatant, other things that probably were very much in the area of sloppy practices, but I think nevertheless a very compelling case is made that there is a significant degree of differential treatment that is adverse and very likely discriminatory through this technique.

I think the testing technique really allows you to probe much more than what's actually available in the overall statistics.

One of the things I'm struck with in terms of addressing this, is that the

Page 70

possibility — and this of course, we can trust later. I'll sit with members of the banking industry that a substantial amount of self testing might be carried.

I'm a former Air Force brat, and also former Air Force officer, and I know the strategic air command would often send in various teams onto air bases to actually test how secure the bases were against someone coming in from the outside. The result of this was that you get a remarkable degree of vigilance and so on, through those particular bases.

I think that there might be some real nerve, if we're going to have these practices administered fairly throughout, and having the banking community more generally, really work out some kind of self testing.

This way small banks could pool with the larger banks in some way, and really institute this kind of self scrutiny in which they could end up arriving at something in

Page 71

consultation with groups such as yourselves. That would be a very constructive way of addressing a lot of these subtle issues, that the loan differential terms and so forth.

Where somebody may still get a loan, but they may get it at far higher rates or they may find that there really isn't this kind of competition offered. I think somehow that kind of effort on the part of the industry might be a way of addressing that. What is your sense?

MR. BERENBAUM: Whole point of the partnership initiative. To say rather than it being an ongoing adversarial relationship between the civil rights movement and industry providers, this is the 30th anniversary of the Federal Fair Housing Act.

Our nation remains hyper-segregated. It is in fact more segregated and we expect, especially if you look at this community, the white flight, not only from District of Columbia, but from our

Page 72

inner communities: Fairfax, Arlington, Prince George. That is going to be reinforced based on interim data that we have seen.

We, in fact, are preparing to test the outer jurisdictions because we are so concerned about what we're documenting. Voluntary compliance efforts, we have an equal responsibility to work hand in hand, doing training, self testing, policy, advertising review, whatever it may be with industry.

If a corporation is willing to step forward and say, "We believe in fair housing as best practice, we have a responsibility as a public interest organization serving this community to work with those groups."

The reality is, quite frankly, it is not something for fair housing advocates to be afraid of, you know, because there is some discussion about are we giving up our private attorney general role by doing this?

Page 73

In fact, we are not. We are firewalling out the program. There are safeguards in place.

There are commitments made by the corporations if there is a complaint, to immediately do the right thing by the complainant. But what it is really doing is putting us all on the same table and the same page with regard to what needs to be done. For those who are the worst offenders in the community, it allows me as a civil rights advocate, to focus all of my enforcement activities on them, where frankly, they deserve to be put.

MS. CORONADO: Just a clarification on that point of the results of the self testing. Those results, I assume, because the banks and other lenders that agreed to that self testing, those results are not available for use in court action or —

MR. BERENBAUM: Well, there has been regulation, which has now been accepted on a federal level, which basically gives

Page 74

companies, lenders, sort of a limited safe haven in the sense that as long as there is a constructive action taken. Let's say hypothetically, there is some finding through self testing to correct the problem?

A regulator will not use that against a particular lending. Now it's all ultimately discoverable, but that is true in any testing situation. What's interesting, and I say this quite candidly, is that while our project was an enforcement project, we very publicly when we released the results, and I agree that, for example, three or six tests of an institution — that shows what may be sloppy practices.

Maybe not enough to say it's a fair lending violation, but it's enough for us to go back. If it happens 9 or 12 times, then you bet we're going to say it's a fair lending violation and file a case because then you're proving a disparate treatment case.

Page 75

But with the self testing, as long as a lender or any real estate provider, insurer, because a lot of people are looking at testing now, act responsively and proactively, there's very little risk associated with it because of the new regs.

MS. CORONADO: So that's a good thing?

MR. BERENBAUM: It's a very good thing. Again, this was a change. Many civil rights advocates were uncomfortable with it, and there was a lot of testimony, pro and con in tweaking it that NCRC and others were involved with in National Fair Housing Alliance. But the outcome, because I had everyone's input, has been very positive, I believe.

MR. SIMS: One last question, you had mentioned the lawsuit being brought? Was that against a specific lending institution or association or can you clarify that again?

MR. BERENBAUM: Are you talking

Page 76

about the Capitol Cities cases that I mentioned?

MR. SIMS: Yeah, mm-hmm.

MR. BERENBAUM: It was against Capitol Cities Mortgage and the principal owner, whose name is Nash. I have a copy that I'll leave right here today. It is a very important case. There are many aspects to it beyond civil rights. For example, there was a very important argument being made under the federal racketeering aspects of our laws. That is also a new argument that is being made.

But I tell you, this will the first of what will be other cases or complaints filed by our agency, because this company by no means is alone as it operates in the District of Columbia.

MR. ROMERO: Mr. Chairman?

MR. SIMS: Yes?

MR. ROMERO: Mr. Nash is not

licensed with my office and with the LBFI.

Page 77

We rejected his application. Legally, he's not allowed to make any residential loans in the District of Columbia. Whether we can afford it or not, that's another problem. But he's doing a commercial role.

MR. SILVER: That's what I thought.

MR. ROMERO: And there's nothing Carlos can do about it.

MS. HEUER: I guess I would address this question, how did you make a decision on which banks and lenders that you used in Washington?

MR. SILVER: That's a good question.

MR. ROMERO: Include all of them or was there —?

MR. SILVER: There's a cut-off. We wanted to, as much as possible, compare apples with apples. So we decided that lenders at 250 applications or more. They had to have taken in at least minority application. That was the cut-off. It

Page 78

roughly translates to people with market shares of about one percent of the market and hire of applications. That was the cut-off, so you'll see D.C. has about 50 lenders in the study.

MR. BERENBAUM: Mr. Chair, can I just quickly make just one more remark?

MR. SIMS: Sure.

MR. BERENBAUM: Relevant to CAP Cities, and frankly what's happening in our entire nation, is that there is a need for greater guidance from regulators in the sub-prime marketplace. We see that beginning to be developed by, for example, Fannie and Freddie.

There's been a lot of dialogue about that, but I believe that this would be a very appropriate function, for example, for our superintendent in the D.C. environment, in a very proactive way because particularly in the D.C. Marketplace, there is a greater reliance in some areas of our community on B,

Page 79

C, and sometimes even D loan products.

We hear some of the horror stories associated from some of the lenders who are less than professional in their approach to marketing these products.

MR. SIMS: Any other questions, comments?

MR. SIMMONS: I want to thank you. We will be, as I mentioned earlier, using the presentation you made to date in our addendum to the U.S. Commission on Civil Rights. Thank you very much.

MR. SIMS: Thank you. If we could have our second panel? David Baer?

MR. BAER: Yes, sir. How are you doing? Good morning.

MR. SIMS: Russell Simmons, do you get mistaken for the other Russell Simmons?

MR. SIMMONS: Occasionally, I refer to myself as the poor one.

MR. SIMS: Okay, and Jan Maxwell? Is Jim Griffin here?

Page 80

SPEAKER: Marcia.

MR. SIMS: I'm sorry. Okay, okay. The next panel will provide us information from in the industry perspective, bank's industry effort to assist to minority home buyers. The first presenter will be David Baer, president elect, Mortgage Bankers Association of Metropolitan Washington, followed by Russell Simmons, the poor one, the senior vice president for business and community development and CRA officer at Riggs Banks, and our clean up hitter will be Jan Maxwell, vice president and CRA officer of the Chevy Chase Bank. Welcome.

MR. BAER: Thank you. Good morning, everybody. I appreciate the opportunity to address the group this morning. As an active member in the lending community, which encompasses Washington, D.C. as well as the Maryland and Virginia suburbs of the city of Washington, I come to you as a representative of both, or rather, banks as

Page 81

well as mortgage bankers, as well as general mortgage lenders.

Our membership consisted of 110 different entities, representing a myriad, if you will, of institutions, and entrepreneurs. Small companies, single branch operations, and then larger national bank operations as well, are members of the Mortgage Bankers Association of Metropolitan Washington, which is a chapter of the national association, just to give you some perspective.

As an active participant in the governing body of the MBA of Metropolitan Washington, I've been involved for six years in the association. I've been involved in lending since 1977. Started my career out with a bank and currently work for savings and loan, but have worked for private owners as well during a 21 year period.

Our efforts at the MBA of Metropolitan Washington, as it relates to your hearings, I think can be stated as one

Page 82

of educating our group as it relates to their responsibilities, both social and professional responsibilities. In 1996 to give you sense, we went with the Virginia Housing Development Authority and commenced an educational program to not only educate our membership, but educate the public.

We had a relative start. It started out slow. We had maybe 25 to 30 homeowners per class, and now this year, we're getting an upwards of 75 to 80 participants per class. I'm very happy to report that about 2/3 of those participants are converting to home ownership. So the program itself was created by the Virginia Housing Development Authority.

They came to the Association in the third quarter of 1996. Both these institutions have participated in those programs. We feel, as an association, the best thing that we can do for the consuming public, is to educate them as it relates to

Page 83

the processes.

There's no doubt that participants or rather member firms and their employees come to the table with predispositions as it relates to how they interface with people. That is human nature and that is, I'm sure, is what this commission's really trying to address. But part of the process with VHDA puts everything in a very objective format, and we have found and as I have mentioned, to be very successful.

We're conducting at least one seminar a month right now. We have enlisted the Northern Virginia Association of Realtors during the course of this year. That has really added a lot to our grassroots effort. As a pending motion for the executive committee for the MBA of Metropolitan Washington, we're going to pursue the same avenue with the Maryland Association as well as the D.C. Association of Realtors, because they're the ones with the contacts with the

Page 84

public.

Our objective is to notify the public of the opportunities in housing, not just in the housing stock, but the housing lending programs, the flexible lending programs that are out there as earmarked by Fannie Mae and Freddie Mac and the larger financial institutions.

It is worth noting that the typical mortgage banker, the small time operator, doesn't have the ability to create these programs themselves and have to rely on these secondary marketing players, like Fannie and Freddie, to get these programs out to the Street. So again, we're looking forward to an extended grassroots effort going forward through the end of the millennium and beyond. We have educated in excess of 750 people in the course of the last 16, 17 months. We're very proud of that.

Again, the conversion rate is about 67 percent to home ownership. So

Page 85

people that come through the program are — and we go after, you know, the Hispanics and the minorities, and anybody that has an interest in buying a house, you know, specifically earmarked Hispanics. We've done these classes, if you will, at libraries, at community centers, that are not done typically as you might suppose on the grounds of an institution. They're done at a neutral setting, which we think adds to the attraction.

The community fairs, providing seminars and exhibits to approximately a 1,000 perspective home buyers, held in June and September of last year. Last year also, we joined forces with several area associations community groups to form the Housing Coalition of Maryland and the Housing Opportunities Coalition of Virginia.

The mission of each coalition is to enhance and expand the efforts to ensure that affordable housing opportunities exist for

Page 86

families in the Washington metro area. Coalition members are committed to continuing their proactive role, in support of the National Home Ownership Strategy and the National Partners in Home Ownership, which I think echoes Mr. Berenbaum's comments about being proactive. I think it's a critical feature.

We have co-sponsored fair housing and fair lending seminars with the Montgomery County Human Relations Commission, providing a full day of educational sessions on fair housing and fair lending practices in April of this year. We have made, as an association, annual contributions to Jubilee Housing and D.C. Habitat for Humanity. We agree as a membership or association, we have a code of ethics which stresses fairness, reasonableness, integrity, sound practices and conduct, without regard to race, creed or color.

Also, as you will hear from my

Page 87

associates here, many of our members regularly hold fair lending functions and remain very involved in the community outreach projects. That's pretty much my prepared comments.

MR.SIMS: Thank you.

MR. SIMMONS: Thank you. My name is Russell Simmons and I'm with Riggs Bank. I am and we are very pleased to be here. I'm going to talk about an overall story and then get to mortgage lending because it's all a part of — a few years back in '93, Riggs was in serious trouble because of the real estate crisis. We got an eastern approval from the CRA rating.

Since then, we have begun to, I guess, consider the entire CRA lending process including mortgage lending on a fairly systematic basis. We do strategic planning. We've assembled a staff. We've gone about making CRA lending an integral part of our business.

Page 88

It is a profitable business. In '93, we loaned about $20 million dollars a year, CRA. We have since then raised that level to approximately $125 million a year. We've lent over between $500 and $600 million in the last 4/5 years. That lending has been as profitable as other lending in the bank.

Now we lend approximately one out of five dollars in this community to low and moderate income areas. That happens to be the percentage of low and moderate income census tracks, and roughly lower than moderate income population in this metropolitan area.

It takes an effort to do that. We've not changed our products a great deal, but we have changed the marketing. We have changed how we do business. We have concerted efforts. We develop a strategic plan, each line of business for the CRA and the bank every year. It is monitored very closely, both on internal committee and a

Page 89

board committee.

It receives a high level of attention in the bank. In addition to that, we do have some flexibility relative to trying to work with the community. It is a business in which you have to be somewhat creative.

We do many home buyer programs. We do them with strategic partners. We have partners with ACORN and have a mortgage program with them. We also have a mortgage program at the $30 million dollar with NARCOVEST Enabling Assistance Corporation of America. We've worked with both of these groups to obtain fairly sizable federal home loan bank board down payment grants, around $750,000 that is available basically as a grant to home owners to help ease the home buying process.

The bulk of our mortgage lending comes from correspondence. What we do is direct them to concentrate on low and

Page 90

moderate income areas.

As you know, low and moderate income areas also are highly correlated with being in minority areas. Actually, the eastern half of the District and the inner beltway, Prince George's County probably make up 80 percent of the low and moderate income census tracts, and I'm sure almost as much for a great portion of the minority population of this area.

So our concentration has to be where the people are. It is a tough business. It is a very, very competitive business. My colleagues at Chevy Chase and others are our fierce competitors. It is — you have to do more each day to stay in the same place. I hope, when the study comes out again from the National Community Reinvestment Coalition, that we are again number one, but it is a tough, tough fight.

Many lenders are realizing that the bulk of growth in home buyers' market are

Page 91

coming from minorities and first time home buyers. Certainly I think in order to be in that business, you have to have the product first. We think we have good products. We were one of the first people out of the box in terms with affordable housing loans.

My colleague, Andy Morris, who couldn't be here today, runs our residential mortgage section and he has been very innovative and very, very dogged in terms of making these kinds of efforts happen. He deserves, sort of, the recognition on the mortgage side because he monitors and watches that program.

In terms of how we make things happen, we do penetration reports every quarter. What we do is we look up geographically where every loan in the bank is going. If we see that a particular geographic area is missing, or we're not getting enough in a certain place, we devise specific strategies to do that.

Page 92

It may mean going into a low and moderate income area with a pre-approved home equity product. It's very, very difficult, particularly in the low income census tracts, because the home ownership really may only be 15/16/17 percent. It's not the 60 to 70 percent that you'll see in this metropolitan area. So it is very difficult to penetrate some of these places.

They have just high rental markets and you have to do marketing and people don't really buy — you get customers from there, but they don't buy there because the housing stock isn't available.

In ward 8 in Southeast, as you probably read in The Post a couple of weeks ago, there are 1,000 single family units now on the boards that will developed within the next 12 months. That is a, not only a sign of confidence for ward 8 and the District, but a phenomenal signal from the private sector that there is a ready market in the

Page 93

District of Columbia.

I mean these houses are, I guess, ranging from the low $100's to the $150's or more. But certainly it signals that there is market, I think. I saw another report about the year 2002 or 2003, there are another 1,000 units for ward 8 that are on the boards. So we're happy about that and I think other places in the District will begin to see that. We hope parts of Prince George's County will also begin to experience a renaissance in affordable housing.

In closing, I think key to marketing in low and moderate income areas across the board, are knowing your market, partnering with neighborhood groups as much as possible. We work with a number of CDCs, as well as the ACORNS and NARCORP that I mentioned. Paying attention to this is a good business.

Three or four years ago, we were not lending $100 million in this area.

Page 94

That's $100 million of lending opportunity we weren't doing. This is good business. We take it seriously. Thank you.

MR. SIMS: Thank you very much. Jan?

MS. MAXWELL: Thank you. Mr. Chairman, members of the commission, I am Jan Maxwell. I'm a vice president and CRA officer of Chevy Chase Bank. I'd like to also introduce my colleague, Richard Harvey, vice president and our chief compliance officer and of course our community partner, Marcia Griffin, who's president of Home Free. Marcia will speak to you when I finish.

Chevy Chase Bank is the largest federally charted thrift institution in the Washington metropolitan area. We have over $6 billion in assets and a branch network of 140. 12 branches are located in the District of Columbia. Any lending statistics I give you this morning are only the District of Columbia, not the larger

Page 95

metropolitan area.

Chevy Chase Bank and our mortgage subsidiary, the B.F. Saul Mortgage Company, are committed to providing a variety of mortgage loan products and services to promote the opportunity for home ownership among D.C. residents. Our mortgage products and services are accessible through our retail, wholesale, and telemarketing operations. Our staff attends fair lending and CRA training twice a year, however, we believe that we can do a better job with that, and are currently in the process of talking with the Fair Housing Council about expanded training opportunities.

Over the past five years, our HMDA statistics tell us that Chevy Chase Bank has provided mortgage financing to over 2,900 D.C. home owners, for a total of approximately $465 million. Of that number, almost 1,200 were minority borrowers, who borrowed in excess of $145 million, and I

Page 96

might add, at prime market interest rates or below market interest rates, not at sub-prime rates.

Despite the NCRC report that we just saw this morning, we believe our success in reaching out to the minority community is the result of committed efforts on the part of our loan originators and successful partnerships with community-based organizations.

Additionally, we have created a series of three financial/education workshops covering the home buying process, credit awareness and repair, and budget development. Our credit counselor, along with other staff members, have presented over 60 of these workshops during the past three years, which have been attended by over 1,200 consumers.

We are especially proud of our relationship with Home Free U.S.A. We became alliance partners with Home Free U.S.A. in the crusade for home ownership in the summer

Page 97

of 1995. Since the beginning of our relationship, Home Free has provided marketing outreach and home buyer education to hundreds of prospective home owners.

Through this process, the bank has successfully funded over $15 million in 145 home loans. The majority of these loans were to minority borrowers of low and moderate incomes. At this time, I'd like to introduce Marcia Griffin, who'll talk to you a little bit about her insights into how successfully assist minority homeowners.

MS. GRIFFIN: Good morning. It's a pleasure to be here. My name is Marcia Griffin and I'm president of a non-profit home ownership organization here in Washington called Home Free U.S.A. I'm also very pleased, I must say that certainly representing the non-profit environment and also being directly in touch with the aspiring home owners as well as home buyers in this area.

Page 98

We are especially pleased to have your organization and many others to be very conscious of, you know, home ownership pursuits and the position of minority, and just sort of underserved communities across the board. So I'm very happy to be here today.

Home Free U.S.A. is an organization that has partnered with Chevy Chase Bank and other lending organizations in the Washington metropolitan area. Our job is to touch the community and to really incite a sense of hopefulness, if you will, within our communities to not only let them know that home ownership is possible for them, but actually show them how to get through the process of home ownership and actually become home owners.

We feel that in order to overcome many of the inherent issues and problems in the whole home ownership process, it really requires three main tools, we find. One,

Page 99

without question, education, we brought this up earlier.

Education, information and motivation are three very, very important elements that are needed in order to overcome many of the obstacles that are faced by minorities and low and moderate income and just underserved people generally. The issues that many people with regard to home ownership, and you know, these are issues that the lenders also face.

The credit issues, the savings issues, all of those, you know, are ones that we engage everyday. We interact with almost 1,000 prospective home owners a week. We are involved very actively in a campaign to encourage people to CDC as a place to live, and to afford them the information that they need to know about the financial incentives there are to buy in D.C.

Generally however, we know that people need, they need a lot of information.

Page 100

There is a significant amount of support that people need, not just financial support, which I must say that the lenders could do anything. Those lenders, like Chevy Chase, and with Riggs and others, who are able to afford down payment and closing cost assistance.

This is absolutely needed within our community. I'm not just saying it's needed by even low income people. It's needed by large income — high income people also who have good credit, but just have not been able to save.

Clearly however, our mission and within Home Free, we have created what we view as a home ownership model which brings people into an environment and really is designed to uplift their financial understanding. It's designed to get people to understand what are the problems, the obstacles to home ownership. If you have credit problems, these credit problems really

Page 101

need to be solved.

Really, we take them under our wing and really with a significant support that we've had through Chevy Chase, you know, to bring them under our wing and get people to really be able to, not just understand what an FHA mortgage is and you know, who Fannie and Freddie are, but really get a real understanding as to who's getting rich and who's getting poor when you're using a lot of credit cards.

How to look at our spending patterns so that even though it seems like we're overwhelmed today with bills and creditors and everything else there, you absolutely must save some money.

When you're going to a lender, you'll want to have some money of your own on the table. This is possible. Within the communities and the people we work also with 133 churches here in D.C., there is a tremendous, tremendous thirst, if you will,

Page 102

among all people for information. They need to talk to people who have become homeowners, or people who are also going through the process so that they know that when they get to the end, and certainly in our environment, every single person who's gone through the Home Free process has been approved.

We feel that people need to be educated and informed about why some people are approved and why some people are not approved. There are many things that we as individuals, that the prospective home buyer can do, quite frankly, on their own to ensure mortgage approval on the back end. So, you know, we work with HUD and DHCD and Chevy Chase and many other great institutions to inspire home ownership, we're seeing significant interest.

As I said, in our classes, we have on average about 100 people in every single class. Quite frankly, we have an infrastructure that is designed to hold onto

Page 103

the person from that class all the way through closing and two years afterwards because what we find is that once a person gets into that home, they really need to have someone that they can call if they have any questions. They need to still come to some classes afterwards.

Of the people that we have put into homes which 145 have gone to Chevy Chase, you know, many of the loans, have gone to almost about 30 or so other lenders in the metropolitan area. We have helped, in the last about 15 months, to get over 300 people into homes. The counseling is great. The education is great. The opportunities are great and we are here to just, you know, thank you for your conscious effort to really look out for people as they become home owners.

MR. SIMS: Thank you very much.

MS. GRIFFIN: Thank you.

MR. SIMS: At this point, I'll

Page 104

throw it open for questions and I think will lead off with a question. It appears from this panel that there has been incredible outreach, education support for getting the perspective buying public educated in terms of how to get through the system and how to be prepared to be a home owner.

Going back to David's Berenbaum's presentation earlier to the panel, the notion of this partnering. There's another part of the equation, which I don't know that I've heard much of, and I'd ask David to come up and respond to it. What's being done within the association to either share best practices and what's being done within the banks in terms of internal compliance? There's two parts of the equation.

In my opening remarks, I mentioned about maybe the large — the loan denial rates are a result of a lot of non-qualified people coming in, but maybe there's also part of it in terms of an insensitivity, a lack of

Page 105

training, a lack of programs, a lack of evaluations or monitoring of the people that are dealing with the public once they come through the door.

I'd like to ask David if anything is being done by your association to get your members sharing best practices or — and then of the two banks, Russell mentioned your quarterly penetration assessment to look at where you're not doing business that you should be. What other kinds of things and systems do you have in place to begin to see how your employees are responding to the people that come in and ensuring that they have a sensitivity to the concerns of those consumers that come in wanting to get a loan from the institutions?

MR. SIMMONS: You want us to go first? Well, I think the penetration analysis is a business tool that's been a useful tools. I don't think you could ever have enough training with which a staff —

Page 106

and it's just a constant review process and a constant re-enforcement that you basically treat all customers well and the same.

We also have a couple levels of second review, both within the mortgage division as well as, there's a separate second review committee within that systematically, after the fact, looks at large group samples. We see pattern going over that sample we corrected immediately from a policy point of view.

That, I think has served us well because we haven't had any problems to date with unfair practices. But overall, I think using tools within the bank, using best practices, certainly talking to you colleagues frequently and finding out what works, what doesn't. The competitive market's sort of lets you know that.

You know if you're not getting the business, there's a reason for it and you have to change to try to do that. Once you

Page 107

decide to get into this business, and it somewhat of a specialized business, but it's not unlike any other specialized business that a bank gets into, you get in, you find out how to do it, and you compete.

MS. MAXWELL: If I could just ask my colleague, Richard Harvey, to talk a little bit about how we handle, you know, internal review.

MR. HARVEY: To answer your question in terms of whether or not there is a sharing of best practices amongst the institutions, I don't think a whole lot of that goes on, but I don't think that there's a whole lot of secrets either. I think we may do things a little bit differently, but we've got the same result orienting, you know in terms of how we want to succeed.

I think David's point earlier on was that senior management makes it known that we won't tolerate discrimination. It's going to trickle down and everyone will know

Page 108

it. I think that's what we started Chevy Bank. We also have a second review committee.

The policy that our senior management has developed with respect to mortgages, that no one individual can deny a mortgage. It has to come to a committee. That committee is empowered to determine whether or not there's any way at all we can make the loan.

Not with the — you know, not looking at — in terms of whether or not we're going to deny it. The second committee is made up of individuals that represent the mortgage company, underwriting, processing, compliance division and various other parts of events.

We were all trying to sit around and determine whether or not there's any way we can make loans. You know, like I said, I don't think there's any sharing of that information, but I think that's something

Page 109

that's pretty common now in terms of the second review. Different organizations do them differently.

Ours is just that, you know, a man from the top, that no one person's going to make any decisions in terms of denial.

MS. MAXWELL: Do you want to address the issue of self test?

MR. HARVEY: Sure, that's also something that we engaged in. On an annual basis, we do self tests. What I mean by that is we hire outside companies to come and to conduct mystery shopping. You ask Cheryl here I guess, whether or not that is something that we found helpful. We have.

What we do is we take a look at that data, and we make certain determinations as to whether or not there are particular individuals within the organization that may be exhibiting discriminatory practices, whether there are certain branches, not certain individuals per se, but certain

Page 110

branches that tend to be discriminating against individuals. Then we take actions based upon those findings.

MR. SIMS: That's no small statement. It's important that you present that because again the notion is that if you just focus on the consumer portion, you negate the notion that in any relationship there are at least two people or an institution and, an individual.

So the notion that you've got your own self-testing begins to address at least the testing that David and his group have done which found the 41 percent in one case were discriminated against, with Hispanics and almost 100 percent in terms of questions about credit.

You may have some process that once the application is filed, but how many people never get to the application process because when they make the phone call or they come in to meet somebody, every indication is that

Page 111

your not welcome? So, it is important.

I think that you folks emphasize as much, the internal pieces that your doing, as well as what you're doing to prepare the consumer. David and then this gentleman?

MR. BERENBAUM: I think that we're taking our first baby steps in collaboration on these issues and that we're doing in this area, particularly D.C., I hope will become a model for the nation. The main things for us to get to the same page as we're going to find discrimination and what becomes a problem from the marketing of fair housing from a perspective.

I think it's important for the commission also to take note from the other lending issues. Small business loans, in particular, are a major issue in the community to expand entrepreneurship, loan protected classes in this nation. It's unfortunate that many protected classes have to, in fact, take second mortgages on their

Page 112

homes just to start a small business.

It's a much larger statistic than their white counterparts trying to be in small businesses. This is an issue we need to address. Also, other related loan products such as the refinance market, such as home improvement loans.

It's interesting that we still receive a large number of complaints in those areas from throughout the metropolitan area. The relationship between appraisal and the lending process — I spoke with a number of individuals in this room. The problems that the lenders are encountering aren't technically a fault of their own because they're using an outside appraiser, but that appraiser as the representative of the financial institution, if in fact they are unprofessional or violate our nation's civil rights laws, that creates a liability situation.

All of this gets back to the

Page 113

systemic and complex nature of discrimination in our nation. We cannot — and this is our approach now, the total approach cannot look lending as an issue unto itself. It is not, for example, the lending institutions call to this nation that we have a segregated housing market, just as much government and realtors and every other aspect of our marketplace.

I think the charge for all of us is to be innovative and think of new ways to reinvent the process. Litigation alone is not getting us there. I say that as a person who's filed over 60 different civil rights complaints. Voluntary compliance alone is not getting us there either because we still have the problems within our corporate structures about how products are marketed.

But if we can work together as civil rights commissions, with fair housing planning agencies, with city councils, with the corporate area, and agree on what are the best approaches and it's all of the things

Page 114

we've been doing plus new things, then we're going to get there. So, I'd like to say that the best practices approach is working even though I don't know the methodology of 30 of the different financial institutions doing self testing, but it's being done.

Now the doubting Thomas and the civil rights folks will say, oh that's just done so they can document compliance 100 percent of the time. The lenders would say we're out to get them because we're suing them. We're beyond that. That's the point to be made to the nation, equal professional service, equal access to mortgage products based on your individual qualifications.

I'll add mortgage products for the rental marketplace for the commercial side as well because there will always be a portion of the American public, despite the noble dreams of Andrew Cuomo and the federal government, that will never be home owners, and we have to be sure that housing stock is

Page 115

there that is quality and renewing itself, both from infrastructure upgrades as well as new construction. There needs to be more mortgage products out there for rental housings of opportunities as well.

MS. KRUVANT: I have a question. Were you going to make a comment to the question?

MR. SIMS: Sure, go right ahead.

MS. KRUVANT: If you were going to make a comment to the question, I would suggest —

MR. BERENBAUM: A comment.

MR. SIMS: Were you going to make a comment adding —

MS. KRUVANT: Sorry. I heard today two things that were extraordinarily positive to us, particularly as we have gone through the different deliberations internally throughout the years. We heard from the member, Mr. Simmons from the Riggs Bank, that it is good business to lend to minorities.

Page 116

Then indeed it has been good for your bank.

We've also heard from you that indeed the members of the communities that are going to be borrowing money, they need to thoroughly be educated/informed, but looking at issues of saving practices is one of the critical concerns to prepare yourself to be ready to borrow money.

From the other perspective, are there some things that now that we hear that it publicly and with data that indeed it is good business to lend to minorities? Are there some things in terms of regulations or regulatory approaches or the system that it is making it too cumbersome for you and for the borrowers to be able to succeed?

If our goal is to make it available, and I'd like to hear particularly from you and from the banks or anybody else, are there some things that need to change so you could continue doing good business of more than anything that the borrowers have

Page 117

access to funding?

MR. SIMMONS: That's a dangerous question to ask bankers.

MS. KRUVANT: I'm usually good at it.

MR. SIMMONS: We are probably the most regulated industry in this country. You're asking me if there are regulations that we could do away with?

MS. KRUVANT: Well, you know, it's time that we all look at ourselves differently. In the past, we used think ourselves as people on two different sides of the table and with different concerns. I think some of the results are allowing for us to have a different type of conversation and also sometimes to address some other issues, if maybe some of the issues were created.

MR. SIMMONS: Mm-hmm.

MS. KRUVANT: At different times.

MR. SIMMONS: Certainly the regulations and the laws that were peddled on

Page 118

both — were needed or when this thing first started, and some of them are probably are still needed. We are so heavily regulated that it's just tremendous costs that you have to bear to do all the regulations.

Certainly I think, and while I can't say we don't want this regulation or that regulation, I think we need to look very carefully at that because the savings from this, I mean, can be passed to the consumer. It costs us a tremendous amount of money to meet the regulations across the board, from CRA to safety in towns. Along that suggestion that we not have any of them, but I will suggest that we, both government and industry, look very carefully at regulations, the cost of them.

It's often, it's much like a band-aid approach. You have a problem here, you put a band-aid on it. There's another one over here. Over the years, you have this tremendous cadre of regulations that are for

Page 119

this reason and that reason — and when you look at them as a whole and put them together, you've got smorgasbord of things that often don't make sense and that are awfully expensive and take a lot of time, a lot of resources to carry out, that are really not germane today as they might have been 10 or 15 years ago when the seats came in.

MS. KRUVANT: Thank you.

MS. MAXWELL: I would make two comments. First of all, with regards to mortgage lending, you know, most of us lenders cannot afford to just go out and make the loans and let them sit on the shelf for 30 years. We do have to access the capital market. So therefore, who's really pulling the strings when it comes to the loan programs and the criteria of those programs? You know, those are the secondary agencies, Fannie Mae, Freddie Mac, and the government agencies had MVA.

Page 120

Of course, they're balance everything against, you know, an issue of risk. So, there's constant change in the programs based on what kind of history may have developed in that program. We've seen just in the last five years some major changes in the — what I would call the low down payment, but the industry views high risk mortgage loan.

I know we've worked very closely with Home Free and Freddie Mac to bring out a mortgage product called the Freedom Fund loan, which we hope will address some of the needs in the minority community. So it's an evolving process and it — you could say that it might be an impediment, but it's also, you know, a business reality. So I think we have to keep that in mind.

The other comment that I would make is that I find these meetings very interesting, but I'm always somewhat bothered, again when we talk mortgage

Page 121

lending, that the representatives from the real estate industry are not here. They have a tremendous amount of influence. Anybody who has found their dream home and knows that that realtor is really the one who's going to get that home for them, you know, understands how important they are to the process and how influential they are.

So, I think there needs to be more dialogue with the real estate community. I know that David in his efforts in the Fair Housing Council, they have tried to address that very specifically, but I think all of us lenders and most of the community-based organizations would say that it would be helpful to have them more involved.

MR. SIMS: Yeah, I do think we reached out to the real estate industry to invite their participation. It's duly noted. The gentleman right — and then we'll go back to you, Josh.

MR. EARL: I'd like a moment to see

Page 122

whether it's still morning. It is. Good morning. My name is Maurice Jourdain Earl. I am managing director of CLC Compliance Technologies. We are a Washington, D.C.-based compliance technologies consulting firm. Our client base essentially are lenders, DOJ and others involved in discrimination in lending.

We have quietly, for the last six years, been doing a lot of the heavy lifting behind the scenes. We go in and we work with institutions one-on-one to analyze their systems, to analyze their lending practices, to do studies with respect to their outcome of a loan application — obtaining the loan applications, but more importantly, what happens to their loan application once it is obtained?

I'm here kind of filling up because I see what the issues really are in terms of the exemplary lenders, are the ones that are truly looking to manage fair lending. It's

Page 123

those people who would add to and put the resources to Fair Lending as they would to managing the bottom line.

So hearing the exemplary lender story, the best practices if you will, are ones where from the top down and bottom up, they're truly involved with trying to find out where the bottlenecks are, where are the policies and procedures and the practices that are breaking down, that prevents people from all races, all colors, etcetera, from having an equal opportunity to update in a loan.

But at the same time, I see so many lenders fall to the trap of having the confusion between affordable housing and fair lending. So we're constantly fighting this battle of getting them to open up and see clearly that affordable housing is different than fair lending, that you could have an affordable housing program that reaches everybody based upon income, yet at the same

Page 124

time, still have fair lending problems, that you can also have an outstanding CRA rating and still have a fair lending problem.

So it's a function of what are you doing to identify the fair lending issues and risk that are associated with the institution?

So to that end, I'm truly pushing today, from a broad policy perspective, the use of comparative file audits in fair lending testing, pre-application testing versus post-application testing. Pre-application testing essentially is the mystery shopping that you've heard about and there's a lot to be learned about pre-application.

However, once that application is obtained, if there is no match pair testing taking place behind the scenes, you will not know whether or not a fair lending issue from that perspective is occurring. To that end, after thousands of loan files that we have

Page 125

reviewed during a comparative file audit, I can tell you where the paradigm shift needs to take place with respect to managing fair lending. It is here.

The issue has been that the industry by and large has been focusing on denials, black denials, Hispanic denials. So programs and practices have been set up for second reviews, trying to see whether or not the denials are justified. Quite frankly, based upon the guidelines, most of the time, denials can be justified. However, the paradigm shift needs to be — to begin to look at white approved loans.

When you begin to study white approved loans and you find differences with respect to the quality of assistance, differences with respect to how someone may have been coached and told about little nuances and wrinkles, given advice as to how to go about getting a gift or how to go about getting some down payment assistance, or how

Page 126

to go about paying out some additional debt in order to qualify, to get within the guidelines of the ratios.

It's the quality of assistance that takes place, whether it be based upon a cultural affinity. The cultural affinity of course comes about by virtue of the fact that you have very few people of color on the front line, as loan officers or brokers in this industry. Okay?

It is still by and large a very, very white industry. So with that lack of diversity, you have differences with respect to how people communicate. They don't have the same level of comfort because they go to the same church or belong to the same health club, to sit down at the kitchen table, then really dig out how you can best situate yourself to get qualified.

So diversity is really a — still a major issue. Then, with respect to studying that white approved loan, when you begin to

Page 127

find the kind of underwriting exceptions that are made, and begin to apply those exceptions to that same black and Hispanic deny population, I pretend that many of those black and Hispanic denied Africans would get approved if the same rules were applied.

But lenders still today, focus predominantly on concentrating and studying the black and Hispanic deny population without looking at the white approval. So I'm pushing for a comparative file audits as the really bottom line, guts up during fair lending testing.

Lastly, I want to ask the Commission to begin to focus on some other broader issues that are beginning to occur, and that is the use of credit scoring in lending. It's being driven, largely by Fannie Mae and Freddie Mac, through the use and the phenomenal increases in the use of technology today. It's gotten to the point where now we're trying to do with mortgage

Page 128

lending, where it's a black box. Okay?

If you don't fit the box, essentially you're out. Credit scoring is driving that box. There are still issues with respect to credit scores. I'm looking at a credit report yesterday. Four different credit scores from four different repositories. Okay?

So it's not only the issue of the score itself, what's in the formula? But just as importantly, how is it being used? What policy does that lender have to say which credit score do I use? Okay? Mind you, the range was a low of 570 to a high of 683. Okay? So, if someone wanted to deny that loan, they'd simply use the 580 or the 570.

Okay?

All kinds of issues there, and I think that the Commission has a good opportunity to begin to look at the influences of the secondary market, Fannie Mae and Freddie Mac in particular, that's

Page 129

driving a lot of this. Okay? Because the lenders are sometimes stuck wanting to do affordable housing and minority lending, etcetera, but they cannot afford to take the risk of putting those loans in their books without knowing it as a ready market available for those loans to be sold.

That's particularly the mortgage bankers because mortgage bankers don't hold loans. They simply make them and with the purpose of selling them. The depository institutions at least have the opportunity to put the loan in portfolio. But even they got into trouble when they had too many of them and interest rates went crazy because they would choke on them.

So the point is, we need to have more of a focus on a broader scope as to where the bottlenecks are in this country, and mind you, Fannie and Freddie being quasi-public entities, need to play a better role with respect to what's going on here.

Page 130

Thank you.

MR. SIMS: Any other questions or comments?

MR. SILVER: I'd just like to make a comment —

MR. SIMS: Yes, I'm sorry, Joshua.

MR. SILVER: On a question about regulatory burden. NCRC would humbly submit that the community re-investment act has worked and has done tremendous things, and it needs to be strengthened. That's the way the regulation needs to be fixed. A couple of years ago, actually, there was a re-work of the community reinvestment act regulations. As you've heard, you know, in passing, banks are examined by federal regulators for a CRA compliance, how many loans they're making to low and moderate income borrowers and low and moderate income communities.

These exams where we worked a couple of years ago, rather than you know, a few years ago, you'd actually have the CRA

Page 131

examiner look at how the board of directors of a bank were involved in CRA program, kind of a process, now that the emphasis is much more on the performance. Where are the loans actually being made?

There was pretty much of consensus among the lenders and community groups that that was the way to go. So the exams have been reworked and there's three different exams, small bank, large banks, and limited purpose banks. Let's just say again that since 1977, there's been $1 trillion dollars of CRA commitments made by lenders to low and moderate and minority communities.

You know, with CRA conversations between lenders and community organizations, how to serve community organizations would not be taking place. And — you know, there was — and actually I should say the 1997 HMDA data is supposed to be released any day now.

So we're all waiting eagerly and we

Page 132

hope that the progress continues. Some of the trends Maurice Jourdain Earl talked about are really some trends, credit scoring and other issues like that.

MR. EARL: Sub-prime lending.

MR. SILVER: Sub-prime lending, other issues like that. So I will end by saying that CRA should be extended. As Mr. Berenbaum was saying, you have to look at the total picture, not only what lenders are doing, but what insurance agents are doing. NCRC has advocated the extension of CRA to other types of lenders, and credit unions, mortgage companies.

Mortgage representatives will not be too happy to hear about that. But anyway, but also to a community reinvestment obligations for insurance companies and securities firms. You may have heard that Congress is considering financial modernization legislation that would basically allow banks, insurance companies

Page 133

and securities firms to all own one another.

Now if they all own one another and CRA only applies to the bank, what's going to happen? The assets may go from the bank to the other parts — the insurance and the securities firm. So, and even some bank — actually a lot of bankers say CRA should be extended to other — to level the playing field and won't say so publicly.

I guess it was — actually there was a credit union bill a couple of days ago that was approved by Congress. Should a Community Reinvestment Act be applied to credit unions? That was an issue with that. So that's how things should change if there is a CRA community reinvestment obligation for the insurance companies, you would have — in HMDA-like data for insurance companies, you have these conversations occurring with community organizations and insurance companies.

It's an additional level of

Page 134

scrutiny and accountability that would help all of us do the job of reinvestment. Than you very much.

MR. SIMS: Thank you. Yes?

MR. HARVEY: I just wanted to make a comment. Well, financial institutions are committed I'm sure to fair lending. I mean at Chevy Chase Bank I can tell you, we certainly are committed. However, it's a little disheartening, and sometimes I think the picture is not as clear as it ought to be, when we see consistently reports that talk about, for example, denial ratios and denial numbers and other things that don't really give a full picture.

I guess what I'm concerned about is when applicants or you know, consumers hear about these reports, are they going to be discouraged from even getting in the process? They aren't always an accurate picture.

I think I read in your report the fact that it was brought out that

Page 135

institutions that had high concentrations of applications from minorities, high approvals of minorities, also had high denial ratios. You know, it's sort of like that Catch-22 that's talked about there. These reports, if they don't accurately reflect why these things happen, for example, the HMDA data doesn't go into — it doesn't give you, you know, reason to know that there is in fact discrimination. I don't see any of the reports really talking in terms of what are the reasons for these denials?

I mean at Chevy Chase Bank, what we do is we go back and we try and find out what are the major reasons for the denials. We've done that process over and over again, year by year. By far, there are two issues that continue to prop up. One is credit history and the other is debt to income ratios.

With respect to the credit history, we take the applicants as they come. We can't change their credit history. What we

Page 136

try to do is get involved with them through organizations like Home Free. You know, we catch them before they even come to table and we educate them in Home Free assistance, in straightening out any kind of credit problems that they may have. I think it's important for the picture to be a little bit more clear.

MR.SILVER: I'd just like to say real quickly in response to that — I'm sorry, but I do want to say real quickly in response to that, the denial thing in our report was only one of six indicators. We did give things credit for marketing and for offering a whole lot of loans — offering loans to low income in minority communities. So we try to look at a holistic — I just want to make that real quick comment that we took a holistic approach in our report. It's just not the denial way.

MS. HEUER: Well, I was going to make a comment that while we were doing this

Page 137

report, I was in fact a real estate agent. So I was very conscious of — and didn't agree with a lot of things that came up actually because as an agent, I felt that I worked as hard as I could to get the best loan from any bank. One of the things that we were always conscious of was — and asked what do you base on the credit scoring? I mean, are you going to deny?

I would not ever go to somebody that I felt that was going to do credit scoring. I think it's probably one of the worst things that's happened. Do you feel that there will be any effort to ease this credit scoring?

MR. BERENBAUM: There is a lot of discussion now on multiple levels about the black box of credit scoring. It's being looked at different ways. National Fair Housing Alliance and the professional organizations have been invited by some of the secondary market players such as Fannie

Page 138

and Freddie to start on. They're just looking at the issues.

I've been very, very clear on the issue in the community, that if we feel that a declination is wrongfully based on the credit score, we're going to file a complaint. We really feel that it is danger in all the accomplishments that we have made. There must be the human to look at credit and explain what happened to the individual or to correct a problem, to look at the disparities and who is the source of the credit scoring. This is a major, major issue, but it's being looked at very closely. So I'm very optimistic within six months we may see some —

MS. HEUER: Could I just ask one question briefly? Do Fannie Mae and — do they have a certain criteria? In other words, if your credit scoring is below —

MR. EARL: 620.

MS. HEUER: That you cannot give a

Page 139

loan?

MR. BERENBAUM: I've been approached by underwriters at some of the major financial institutions here in the giving their advice right now. We want to work along, but they know they can't sell the product. That's unfair.

MR. BAER: Credit scores are only one component to like debt ratios and down payment aspects of the transaction. A lender that's relying simply on a credit score to make an underwriting decision is playing with fire, and I think that's a lesson some of us have already learned. Again, you know, each lending institution has their own practices, but in general, I think the consensus is don't rely on simple credit score.

If you've got a 620 credit score like Maurice says, you know, that's a symbol of exercising caution. Well, I can tell you there are good borrowers out there with credit scores below 600, that if you take a

Page 140

look at the whole picture, and you look at the mitigating circumstances that drove that score down, they're good risks. Secondary programs allow things like that.

MR. EARL: However, at the same time, here is something that I know what's happening right now in this industry. It happens before the loan even gets to the lender. The loan officer is immediately asking for permission to pull a credit report to give a credit score and making a decision, a determination right at that point, as to whether they are even going to take this person on as a client.

No questions asked with respect to why explanations of derogatory credit, but just based upon this score under the guise of saying, "I'm asking for this so that I can determine what loan product to put you in." However, when the score comes back for something less than what they think is going to make the cut, the next word is "next."

Page 141

Okay? 513 is where that particular one goes.

Now we found this out by doing some mystery shopping. Okay? In particularly, and this is down in Florida, but it is widespread practice across lenders, it is beginning to happen because quite frankly —

MS. HEUER: Are you talking about pre-qualification?

MR. EARL: Pre-qualification, that's exactly right, but it's a very efficient process.

MS. HEUER: Mm-hmm.

MR. EARL: However, it is clearly discriminatory.

MR. SIMS: Florida also is one of the hottest sub-prime markets in the nation just as a footnote.

MS. GRIFFIN: I'd like to just make a couple of comments. In working with thousands of home buyers, this credit score issue is a significant issue. It really is. People, even before they begin going to

Page 142

realtors or lenders, they are aware of the credit score. This is a big issue with Fannie and Freddie.

It really does — you know, when they say something, it impacts the lenders. It impacts the home buyers. It impacts everyone.

You know, just to sort of tag along with a lot of the things that Maurice said, from a community standpoint, we are losing a lot of people to the sub-prime mortgage brokers, who are out here, who when a person has a small credit issue and could serve to work that credit issue out you know, over a period of just a couple of months, they have a loan officer who is telling them, "Look I can get you into a home right now, you know, but you've got to pay three and four extra —"

Well, we've even had people who have paid eight points. Those are the people that — eight points and three percent

Page 143

interest rates. I mean those are the people that David and those are working with and should address.

This is a problem and minority communities, particularly the African American community and the Latino community are targets for this type of lending. You know, certainly where the credit score is concerned, that credit score is too low.

A lot of lenders, a lot of loan officers — we even look, quite frankly, at credit scores ourselves. You know, because we are so aware of what Fannie and Freddie are looking at where the industry is going. Really, I mean your commission — this would be a wonderful task for you all to engage because it will impact the home ownership in this country.

MR.MCKETHAN : I'm not sure I understand, when you say sub-prime rates. Are you talking about sub-prime rate with interest rates that are penalty-like?

Page 144

MS. GRIFFIN: Yes, exactly.

MR. MCKETHAN: Okay, so if I get a three percent interest rate from a — and I'm the institution, I have to pay like you said, eight points?

MS. MAXWELL: Well, no, it'd be a 3 percent add on to today's market rate.

MR. MCKETHAN: Oh.

MS. GRIFFIN: Yeah, exactly.

MS. MAXWELL: Market rate is sitting at a half, if you're talking about —

MR. BAER: Sometimes it's termed predator pricing.

MS. MAXWELL: Right.

MR. BAER: There's another development in the industry that I think is very worth while mentioning to this group, and that is the introduction of automated underwriting practices both through Freddie Mac and Fannie Mae.

I can cite examples where we've had borrowers approved at my company with credit

Page 145

scores in the 570s and the 580s, have gone through these automated underwriting systems and had been approved for loans sold to Fannie and Freddie. Okay?

I'm talking about fixed rate, prime pricing, 6 1/2 percent, zero point type transactions. So there is some development going on, that in, you know, in the beta testing, took place about 3 years ago on the desktop underwriting system and now is utilized on a very widespread basis across the nation.

Not every lender's out there is subscribing to it. So they're relying on people that bring poor judgment to the equation. So there is development taking place on the positive side.

MR. SIMS: Any other — yes? Ki-Taek?

MR. CHUN: I have a question, please. To what extent is that accessible to the data which you mentioned, that is the

Page 146

loan officer's conduct and the use of credit scoring, and then given I presume it is. I presume he has limited access. Do you have any suggestions as to how we, for instance, chance of absence of penetration?

MR. EARL: Well, the only public data set, and this is the best set of data available, the HMDA data. HMDA data is limited in what it can tell you. It can tell you essentially race, geography, income of the applicant, geographic location of the property, and the action taken on the application, but it gives you no qualifying information, not the LTB or the loan to value or the housing ratio, the debt to income ratio, nor the credit score.

So to that extent, the best that you can do with HMDA data is to do studies with respect to what the broad lending patterns are by a lender.

You can't come to any conclusive decision with respect to discrimination in

Page 147

lending, but with respect to that, you can begin to analyze it, to determine whether it's smoke. Because generally where there is smoke, there is going to be some fire. While it may require further study because quite frankly, if you are doing a very good job of marketing and going and getting loan applications from a population that may have more problems than others, you will have a higher denial rate.

But at the same time, that means that you need to focus also on looking at what is the origination rate disparity because there's a good story there. As a matter of fact, the industries that we use, we have four of them. We call it the ODI, DDI, FDI and TDI.

The ODI is the origination break disparity between black and white. The DDI, denial rate disparity and the fallout rate, which is another very critical area, fallout in terms of HMDA. There's three categories

Page 148

of HMDA for action codes that does not result in a denial, nor an approval.

That is, the loan application was approved by the lender, but rejected by the applicant. Or the loan application was withdrawn. Or lastly, the loan application was incomplete. We sum all three of those action codes together to call it fallout.

There's a serious story that can be told by analyzing fallout because it may ask questions with respect to quality of assistance. It may have questions with respect to steering, with respect to a lack of trying to help someone get a loan.

But when you look at the whole picture, you begin to get a sense for what is a lender doing and where, because I tell you that the view that you get when you look at the NSA level is one thing. When you begin to look at the county level, it's another. When you zoom in and look at the central city level, it's even more dramatic.

Page 149

So while many of the studies for purposes of ease will focus on MSA, when you zoom in and look at the city, that's when the story really is being told.

For instance, 30 percent minority for the Washington, D.C. MSA is a far cry from the 50 percent minority in the District of Columbia or 50 percent in P.G. County. Okay? So if you look at P.G. County versus looking at D.C., versus looking at the Washington, D.C. metropolitan area, phenomenally big, different story.

MS. HEURER: What was your TDI?

MR. EARL: Oh, TDI. I'm sorry. Good Ann, you're listening. TDI is the total disparity index. Okay?

MS. HEURER: Okay.

MR. EARL: So it's the sum of all three of them. We've basically come up with this methodology to use to do a comparative analysis of lenders.

MR. SIMS: Jody and then David.

Page 150

MS. WILDY: I just have a question. In terms of credit scoring, are most of these statistics based on first time home buyers or is there any — or is it just in terms of whether you're purchasing your second house, or whatever?

MR. EARL: It doesn't matter. It doesn't matter.

MR. BERENBAUM: Freddie Mac has just completed a report, which I think they have released or about to release. It looks at credit scoring, but it analyzes as if in fact credit scoring was to be implemented hypothetically, what would be the impact both based on income as well as based on race? It's a fascinating study that was presented at — or at least there was a preview of it at the National Fair Housing Rights Meeting.

But that is a response to your question, and it's going to be a fascinating report on what hypothetically would be the impact rolled out. There were many

Page 151

different levels to it, you know, depending on if you were looking at race or income. In some cases expanding opportunities.

MR. EARL: Well, the issue there is though, I mean we have to look this at a broader setting. If you are the last hired and first fired. If you've been disenfranchised for 400 years. If you have lack of an opportunity to get a decent education and now all of a sudden we get to a point in time where we can use technology to come up with a score, all of the baggage that you brought to the table is going to still be with you when that score is taken.

So unless there's some intervention to again to realize that it's broader than just a score or broader than just the issues with respect to loan underwriting, that people are dealing with. We're dealing with people's lives and we're dealing with their homes. We're dealing with how they develop and where the kids go to school and what kind

Page 152

of police protection's going to be involved.

So it's a lot broader from a social perspective when we try to reduce it down to a single score that may be flawed, particularly if it's going to bring into focus the number of inquiries, or bring into focus the type of credit that someone has.

For instance, finance companies credit is deemed less desirable than non-finance company credit. Well, if the only company that's around in your neighborhood is a finance company, that's where you're going to get your loan. So you automatically have some internal, intrinsic things that are going to be going against you, without your ever even knowing it.

MR. HARVEY: Even absent of credit scoring, you have those factors that are coming against you, and that's what I mean when I say that financial institutions take people as they are. If they're carrying that kind of societal baggage with them, that's

Page 153

what we're looking at it.

MR. SIMS: David saying that credit scoring in and of itself — experience has been somewhat problematic, that you have to look at it more holistically if you're going to do a more accurate assessment and not put yourself in a position.

SPEAKER: Don't lead them blind?

MR. SIMS: Yeah, exactly.

MR. EARL: Well, one of the last comments that I have to make is to do a study of who owns these sub-prime lenders. Okay? Many of them are owned by our major banks. So we walk into a room on one day, and we have, you know, the person with the nice suit on, but around the corner, they own Nations bank Credit or Fleet owns Option One out of Los Angeles, which is a sub-prime lender.

Weyerhauser was sold out to a company called WMC, which is a sub-prime lender. CIT is owned by Chemical. Chemical also owns, and Travellers owns a piece of

Page 154

Commercial Credit. Okay? So we have one face with respect to the A lender, but that many of these A lenders also own B and C and we saw where one lenders rated the Z loan.

SPEAKER: What is that?

MR. EARL: That's the loan for anybody that's got a heartbeat. It exists, but the question was at what rate. Okay? HMDA data again can't even get you to that.

MR. SIMS: Are there any other questions, comments, issues that?

MR. SILVER: I just say watch the Federal Reserve Board because over the spring they asked us, we're thinking about doing a new proposal for HMDA. What are your thoughts about HMDA data? NCRC said, "We'd like to see the annual percentage rate on the HMDA data so you can get a sense of, you know, prime lending versus sub-prime lending," which we can't really do right now through our studies.

We also would like to see the

Page 155

credit score on the HMDA data. So our minorities with the same credit score as whites are being treated the same. So it may come out in the fall with a proposed rule. So, you know, I would invite U.S. Commission of Civil Rights to monitor that and to get involved in that process.

MR. SIMS: Thank you very much. Thanks to our panelists. Thank you for those that took time this morning with other hearings and things going on in the Washington area to be with us. Let me say that the State Advisory Committee will be meeting in September.

We will take forward the recommendations in terms of follow-up issues for the initial report and that we will be issuing, as I said, issuing an addendum to the report that based on the feedback information that was submitted to us and shared with us today. There being no other business to come before us, I'll call this

Page 156

meeting adjourned. Thank you very, very much.

(Whereupon, the PROCEEDINGS were adjourned.)

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