Aaron Glantz <aglantz@revealnews.org>

Journalist Inquiry: Racial Disparities in Mortgage Lending

Sarah Grano

To: Aaron Glantz

Thu, Jan 25, 2018 at 10:24 AM

Aaron,

ABA Statement

Without the ability to review your specific HMDA analysis, we cannot comment on the findings directly, however, ABA firmly believes that discrimination has no place in the mortgage market. We continue to work closely with our members, regulators and other groups to make sure creditworthy Americans have access to the financial products they want, with the protections they deserve. Bankers are in the business of making loans, and they want to provide mortgages to as many qualified borrowers as possible, and to do so in a way that encourages a positive future relationship. Like many other businesses, banks understand that reaching out to every segment of the community also makes good business sense.

ABA also firmly believes that any meaningful review of mortgage lending practices, as regulators and the courts have articulated previously, must go beyond statistical analyses and consider individual factors such as a borrower’s credit history, debt-to-income and loan-to-value ratios as well as their ability to repay. Unfortunately that sometimes means hard working Americans seeking a mortgage may not qualify under current rules. ABA remains committed to working with policymakers to ensure those deserving borrowers eventually get the opportunity to obtain a mortgage appropriate for them.

In addition, we think the following points are critical to include in any thoughtful assessment of mortgage lending practices by banks:

1) HMDA Data Alone is Insufficient to Conclude Racial Discrimination in Mortgage Lending:

HMDA is a tool that helps bankers, regulators and others understand the flow of mortgage credit in their communities. While the data can help bankers and regulators identify areas for further investment or examination, the HMDA numbers alone are not dispositive of fair lending performance. HMDA data can only determine if a disparity exists; it cannot be used to explain why it exists. Generally, the most important factors in the decision to lend is a borrowers’ credit score and history, their income and debt-to-income (DTI) ratio, and the loan to value (LTV) ratio, and that information is not included in HMDA data you analyzed. Again, that does not mean the HMDA information is not important. It simply means the data cannot paint a complete picture.

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It's important to keep in mind a significant Supreme Court decision. As pointed out by Justice Kennedy in 2015, statistics alone do not demonstrate a fair lending violation. There must be more than simple statistical analysis. That's why HMDA data can only serve as a starting point and not a conclusion. The 2015 decision can be found here.

2) Regulators Do Have the Information Needed to Assess Whether Discrimination is Taking Place:

Federal regulators regularly review not only the HMDA data but also the other relevant information needed to assess whether discrimination is taking place. The Federal Reserve's latest Residential Mortgage Lending report which we have attached here attests that bank examiners use HMDA pricing data and loan application outcomes, “in conjunction with other information and risk factors that can be drawn directly from loan files or electronic records maintained by lenders,” to scrutinize mortgage lending practices to make sure illegal discrimination is not occurring. Banks also use the HMDA data internally to make sure there is no disparity based on any protected class, such as race. Banks test files internally to confirm that denials are based equally on the same criteria, such as credit histories and other critical information to make sure they are in compliance with fair lending requirements. As you heard on our call, that work is shared with their examiners. Federal examiners also retest the data to ensure compliance. Such multi-tiered controls protect against the possibility of “systematic denials” for any protected class, and makes it unlikely that any discrimination occurs in banks’ lending programs.

3) Ability to Repay:

A very important point to consider in relation to industry practice is that banks are required by federal law to assess and reasonably assure an applicant’s ability to repay. We have also attached those guidelines and urge you to review them. Federal regulations set forth comprehensive legal standards to govern the underwriting of residential mortgage loans, requiring creditors to follow precise guidelines regarding the consideration and evaluation of borrower repayment capacity. Your reasonable inquiries about what we can do to expand lending to specific communities is therefore dependent on what is possible under law. We suggested that this legal environment should be part of the broader story into why banks are in a delicate position when altering lending standards, and why it may be more difficult for some Americans to obtain a mortgage.

4) Not All Lenders Are the Same:

The mortgage market includes more than just banks. In 2016, banks & thrifts collectively accounted for about 38 percent of all reported mortgage originations. Unlike those other players, banks face additional regulatory requirements. When examining lending practices, we urge you to keep in mind the distinctions between lenders.