

Oral Testimony of
Suzanne Sangree, Chief Solicitor
Baltimore City Law Department
Before the United States House Judiciary Committee
Subcommittee on Commercial and Administrative Law
Hearing on the Role of the Lending Industry in the Subprime
Mortgage Crisis
Wednesday September 9, 2009

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Members of the Committee, I am Suzanne Sangree, a Chief Solicitor in the Baltimore City Department of Law, testifying on behalf of the Mayor and City Council of Baltimore. Thank you for inviting me to speak with you today.

Baltimore is a case study of the damage that has befallen cities in the absence of aggressive federal enforcement of this nation's civil rights laws, especially the Fair Housing Act of 1968. In particular, lax enforcement of the Fair Housing Act, combined with federal relaxation of federal banking regulations and federal preemption of states' ability to regulate lenders, created an environment in which racially discriminatory predatory lending flourished. Baltimore, a majority African-American city, is currently contending with the devastating economic fall out of this petri dish for racially targeted predatory lending. The City has developed and continues to develop a six pronged approach to staunching the resulting economic damage and repairing it. Litigation against the wrong doers is one prong of our plan, beginning with our Fair Housing Act suit against Well Fargo for reverse redlining. In the absence of federal enforcement cities have been left to contend for themselves. Under the leadership of City Solicitor George Nilson and our co-counsel John Relman and Brad Blower of Relman & Dane, Baltimore

City turned to the Fair Housing Act as our best weapon for fending off reverse redlining and obtaining relief to repair the damage it has inflicted. The shapers of that Act smartly provided a broad capacity for standing to sue, thus the Supreme Court has long recognized that Cities have standing under the Act. However, it was always envisioned that the federal government would play a leading role in enforcement. It has not.

Like other American cities with large non-white populations and a history of racial segregation, Baltimore is particularly vulnerable to predatory lending. This vulnerability is caused by two complimentary factors: 1) a history of denying minorities access to credit; and 2) a history of racially segregated living patterns. As to the first factor, communities that for generations had been locked out of credit and housing opportunities, because of redlining are rendered desperate for credit and without the knowledge or experience required to identify loan products and lenders offering better terms. When one's only experience with loan applications has been no, it is common to jump on the first yes without much critical evaluation. The second factor is key because when these vulnerable communities are geographically concentrated they are easily targeted by abusive lenders. Unfortunately Baltimore fulfills both of these factors.

Our solid patterns of racial segregation were initially enforced by racially restrictive covenants. In 1954, within months of the Supreme Court's *Brown I* decision, forward looking Baltimore officials decided to desegregate the City's low-income housing units. However, well into the 1970's and later the siting and maintenance of racially segregated public housing continued to reinforce Baltimore's patterns of housing segregation. Importantly, redlining practices by federal and state government authorities-- and by private entities (mortgage lenders and insurers)—also created barriers to desegregation. The Secretary of the United States Department of Housing and Urban Development admitted in 1970 that the federal government had “refused to provide insurance in integrated neighborhoods, promoted the use of racially restricted covenants,” and engaged in other methods of redlining. Data from the 1980's, long after the institutionalized government and corporate apparatus of discrimination had been formally dismantled, shows that the more African-American residents in a Baltimore neighborhood, the fewer the mortgage loans and dollars the neighborhood received. And while we are 64% African-American and 32% white, today's map of our neighborhoods shows that many still have very high concentrations of one race or the other.

As our history of redlining and racial segregation would predict, beginning in the late 1990's, Baltimore has been targeted for predatory loans. This fact is reflected in the wave of foreclosures currently wracking the City. Since 2000, more than 33,000 homes have been subjected to foreclosure filings. From the first to the second quarter of 2007, foreclosure activity in the City increased five-fold. Moreover, we expect this year to be even worse than last year as an additional 4,300 ARMs adjust to higher rates in the City, often to rates the borrowers cannot afford. Another 2,000 ARMs readjust in 2009. During the first quarter of 2008 alone, 1,447 foreclosure filings were made in Baltimore City.

On January 8, 2008, Baltimore City filed suit against Wells Fargo in the federal district court of Maryland alleging that Wells Fargo engaged in reverse redlining, i.e. that it has targeted Baltimore's African-American neighborhoods for bad loans. We chose Wells Fargo because it is one of the largest mortgage lenders in Baltimore and it has the greatest number of foreclosures in the City. Since 2004 to the present, Wells Fargo has made over a 1,200 mortgage loans per year in Baltimore City. No other lender made more than 1,000 mortgage loans in Baltimore during these years. In addition, the racial disparities in lending practices for Wells Fargo loans were among the greatest of all lenders. But there are certainly other bad actors in the City, and we hold them accountable as well.

Home Mortgage Disclosure Act (HMDA) data reveals the racial disparities in Wells Fargo lending practices in Baltimore. As documented in the attached complaint, in 2006 Wells Fargo made high-cost loans to 65% of its African-American mortgage customers in Baltimore, but to only 15% of its white customers in Baltimore. Wells Fargo's refinance loans were even worse: in 2004, 2005, and 2006, a Wells Fargo refinance loan to an African-American borrower was 2.5 times more likely to be high cost than a refinance loan to a white borrower. In addition, Wells Fargo's pricing sheets require that equally credit worthy borrowers in predominantly African-American neighborhoods pay higher interest rates than their counterparts in white neighborhoods, imposing thousands of dollars in extra interest payments on African-American borrowers.

High level ex-employees of Wells Fargo have submitted affidavits with our amended complaint (attached hereto) detailing the economic incentive structure at Wells Fargo which encouraged employees to engage in racial targeting—to steer African-Americans into subprime loans even when they qualified for prime loans, and to engage in numerous other deceptive practices to induce unsuspecting borrowers into unfavorable loans.

Interestingly, research recently conducted by Chris Herbert of Abt Associates Inc. for the Annie E. Casey Foundation confirms that race accounts for lenders' disparate lending practices in Baltimore neighborhoods and not credit scores or other risk factors. He has analyzed HMDA, Census Bureau and credit scores from the credit bureau Experian for selected neighborhoods in 13 cities, including the Sandtown/Winchester/East Side Revitalization Area in Baltimore. He concludes that **when one corrects for credit scores**, there is a "Very High" (over 15%) racial disparity in these Baltimore neighborhoods for refinances for 2006, and a "High/Med" (5-15%) racial disparity for purchase loans in 2006. Wells Fargo was the most active lender in both categories in Baltimore. In other words, even after taking the credit characteristics of borrowers into consideration, Wells Fargo was ranked first among lenders in Baltimore for having the largest disparity in the prices it charged African Americans versus whites. So while we are just commencing discovery now in our suit, we have every reason to believe that the loan files will bear out the allegations of our amended complaint.

As our amended complaint documents, Wells Fargo also has one of the highest foreclosure rates of any lender in Baltimore, and its foreclosure rate in majority African American neighborhoods is 4 times the rate in majority white neighborhoods. Two thirds

of Wells Fargo foreclosures in Baltimore in 2005 and 2006 were in census tracts more than 60% African-American, while only 16% were in tracts that are less than 20% African American. Wells Fargo's foreclosure rate for loans in African-American neighborhoods is nearly double the overall City average, while its rate for loans in white neighborhoods is less than half of the average.

An interesting fact about Wells Fargo loans in Baltimore is that fixed rate loans constitute the majority of Wells Fargo's foreclosures. With contemporary underwriting methods lenders can reliably predict whether a borrower will be able to repay a fixed rate loan (debt to income ratio/loan to value/FICO/work history etc.), and the loan payments do not change over the life of the loan. However, even though 70% of Wells Fargo's foreclosures in both African-American and white neighborhoods are on fixed rate mortgages, African Americans are nearly 4 times more likely to be foreclosed upon by Wells Fargo than whites. This is compelling evidence that Wells Fargo followed a policy of putting African-Americans into loans they could not afford.

When people are locked into mortgages that they cannot afford, they will soon fall behind on payments and foreclosure will often result. This pattern of predatory lending and foreclosure is ravaging our City. The TRF/Goldseker Study, "Foreclosures in Baltimore, Maryland" found that Baltimore lost \$41.9 million in tax revenue in 2006 alone because of foreclosures. Lost property values across Baltimore in 2004 and 2005 total \$17.8 billion.

Baltimore incurs increased code enforcement, police, and fire costs when buildings remain vacant. And the dollars and effort spent to nurture neighborhoods, and to spark and maintain the urban renaissance the City had been undergoing, are being washed down the drain, as up and coming neighborhoods are stalled and even reversed in their economic progress.

The City seeks compensatory and punitive damages from Wells Fargo in order to mend the damage the company's predatory lending has inflicted, and to deter such conduct in the future. Judge Legg denied Wells Fargo's Motion to Dismiss in July of this year and we are now engaging in discovery.