HEARING TESTIMONY FOR

"EXAMANING LENDING DISCRIMINATION PRACTICES AND FORECLOSURE ABUSES"

SENATE JUDICIARY COMMITTEE

SENATOR BENJAMIN L. CARDIN

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Thank you Senator Grassley for the courtesy, and Senator Whitehouse. Senator Leahy, it's nice to be back before the Judiciary Committee. I must tell you, on the other committees that I serve the Chairman does not recognize me in the same way you just did. So I thank you very much for those very nice comments. It's good to be back. Thank you for that; and I thank you for holding this hearing. I think this is an extremely important subject and I applaud your leadership and the leadership of this Committee.

Let me begin by telling the Committee that I know from my own state of Maryland that families and communities are still hurting from the effects of lending discrimination and foreclosure abuses. The wounds are raw and real. There is still so much more that we can do. My own state of Maryland has become a model for the nation in strategies for combating foreclosures. Working across agencies, the state has developed a comprehensive strategy that includes legal and regulatory reforms, as well as housing counseling and legal assistance networks. They are making a difference. Here is just one example.

A few weeks ago, I was proud to partner with the Maryland Department of Housing and Community Development to hold a foreclosure prevention workshop. This was not the first workshop I sponsored and it certainly will not be the last. There was very strong community turnout for this event. In fact, Mr. Chairman, there were over 600 people who showed up for this mortgage foreclosure prevention workshop. It took place 8 or 9 miles from here, in the Washington suburbs.

Viola Williams was one the hundreds of Marylanders that attended the event. Three years ago, she began to fall behind on her mortgage, mainly due to factors that were beyond her control. She was responsible and immediately got in touch with her bank about modifying her loan. For three years, she went back and forth with her bank. She became convinced that her bank was trying to wear her down. But she did not give up. She was persistent. She was proactive because she knew that her home was her biggest investment and she could not walk away. At my event, she met with housing counselors, who were honest with her about her options, what resources were available to her, and what to expect when dealing with her bank.

Most importantly, she was able to meet directly with a representative from her bank who was able to directly submit her modification papers. After waiting for three years, a few days after this event Ms. Williams received her modification papers. Her story is a common one. But her happy ending is all too rare. We need to do more to help these people. There is no magic wand or silver bullet for fixing our housing problems. In the end, our success will be the result of a patchwork of policies and the hard work of government officials, housing counselors, and individuals. The path ahead is unknown, but we owe it to Viola Williams and others like her to keep trying and to provide them with the tools to stay in their homes.

Mr. Chairman, we can make a difference. Our policies can save people's homes, can save families, and communities. The height of the irresponsible lending practices was from 2004 to 2008. According to the Justice Department, the greater Washington area, including suburbs in my home state of Maryland, ranked among Countrywide's top 10 targets. In Prince George's County, the most affluent majority-black county in the United States, these types of loans have had a devastating effect. At the beginning of the housing crisis in 2007, a state task force identified it as the epicenter of Maryland's foreclosure crisis and the County's residents continue to struggle to stay in their homes. Mortgages for roughly one in four single-family residences there have been in default or some stage of the foreclosure process since 2006. Average property values have declined by 35 to 40 percent and homeowners will continue to struggle with underwater mortgages.

The banks protected themselves by shifting the risks of nonpayment to investors, and make a profit in the process. These practices triggered the worst financial crisis since the Great Depression. And today, many economists blame the anemic housing market as the biggest drag on our economy.

No state has been spared. Nationally, average home prices have fallen by 25 percent since prices peaked in 2006. In the same period, prices fell 30 percent in Maryland. Across the nation, more than 10 million homeowners now owe more on their mortgages than their homes are worth and 4 million more have been foreclosed upon since 2007.

Many of the victims are honest, hardworking, responsible people that bought homes to raise their families, to pursue their dreams, and make memories. And now they are trapped in a nightmare where they can't refinance their homes to make them more affordable, or worse, are in serious risk of foreclosure.

I want to personally thank Assistant Attorney General Perez and the Department of Justice for the important steps they have taken and continue to take to protect families across the nation. In December, the DOJ announced a historic settlement of a lawsuit with Countrywide. Countrywide charged over 200,000 African-American and Latino victims more for their loans because of their race or ethnicity. Further, Countrywide put more than 10,000 of those families who had qualified for safe loans in the less expensive prime market into risky, subprime mortgages – while at the same time white borrowers with similar credit histories were steered into safer, prime loans.

Traditional civil rights laws took aim at the practice of "redlining," which in the housing context meant that banks and mortgage companies would favor lending to whites and disfavor lending to minorities. Congress passed the Fair Housing Act of 1968 and Equal Credit Opportunity Act of 1974 specifically to prohibit discrimination based on race, color, or ethnicity in terms of selling, buying, renting, or financing a house. But today, in 2012, we are seeing a new type of housing discrimination. This is the practice of "reverse redlining." While traditional civil rights cases dealt with being denied a benefit based on race – such as lack of access to public accommodations, employment or the election booth – today's discrimination makes the victim believe that they are actually lucky and have finally achieved the American dream. I commend Mr. Perez for aggressively enforcing our civil rights laws to meet today's challenges.

This new type of discrimination results from the "steering" of Hispanic and African-American borrowers into less favorable loan rates, including subprime loans. According to DOJ these loans were often much more expensive, and were subject to: possible prepayment penalties, exploding adjustable interest rates, sudden rate increases after a few years, and increased risk of credit problems, default, and, ultimately, foreclosure.

Every family has paid a very steep price for the irresponsibility and recklessness on Wall Street over the last decade. But no group has experienced the pain of this crisis more than African-American and Latino families. According to the Department of Housing and Urban Development, "between 2005 and 2009, fully two-thirds of median household wealth in Hispanic families was wiped out. At the same time, middle class African-American neighborhoods saw nearly two decades of gains reversed in a matter of months."

Any way you look at it, it's an absolute tragedy. As my staff and I work with borrowers, banks, and housing counselors to keep hard-working Marylanders in their homes, I am grateful for the efforts taken by the state of Maryland and the federal government to stabilize our neighborhoods. At the same time, I look to Mr. Perez, the Department of Justice, and this Committee to continue our work in making sure that deceptive and discriminatory lending practices never happen again.

The Countrywide consent order and $335 million settlement are but a first step. I commend the President for forming a Financial Fraud Enforcement Task Force to investigate and prosecute housing fraud and discrimination. Last month, Attorney General Eric Holder announced a multi-state settlement with 5 of the nation's largest mortgage servicers for origination and servicing fraud and wrongful foreclosures. As part of this settlement, these market leaders will implement more new standards designed to ensure that borrowers are protected as they enter into mortgages.

In Maryland, this settlement will also bring almost $1 billion to help homeowners. 40,000 borrowers will be able to modify their mortgages to make them more affordable or receive restitution for the loss of their homes. The state will have more funds to increase the mortgage counseling and legal services available to homeowners. The settlement is a positive step forward and is part of ongoing efforts by the states and on the national level to investigate previous practices, improve them going forward, and hold bad actors responsible.

Mr. Chairman, I am reminded what Senator Ted Kennedy, a former member of this Committee, used to say when he discussed civil rights as the "great unfinished business of the nation." Let's keep working to fulfill the promise of the American dream for all our citizens, regardless of their race or ethnicity.