

Memphis, Shelby plan National lender lawsuit

City, county leaders vilify deceptive ploys

By Alex Doniach

Sunday, December 14, 2008

Memphis and Shelby County leaders are proposing to sue major national lenders who they say helped create a local foreclosure crisis by engaging in "deceptive" and "discriminatory" lending practices targeted at the black community.

Officials say the lending practices -- and the resulting foreclosure problem -- have caused irreparable damage to neighborhoods and drained government coffers, with abandoned homes and displaced families eroding property values and requiring more services.

The local governments are counting on a suit to recoup some of those losses and temporarily put a halt to foreclosures going forward.

"Every government has an obligation to protect those who are least able to fend for themselves," said Shelby County Mayor A C Wharton. "This is certainly one of those situations where individuals in these distressed situations are standing alone and simply cannot fight back."

Wharton and Memphis Mayor Willie Herenton's administrations have discussed the possibility of legal action for months with the help of Memphis Area Legal Services, but city and county legislators -- who have been left largely out of the loop -- will get a first look at the possible suit this week.

The City Council is expected to be briefed by city attorneys on Tuesday. Meanwhile, the County Commission will vote on a resolution Wednesday authorizing the county to pursue the legal action and allocating up to \$125,000 for expenses. The city is expected to pitch in another \$125,000.

Broad support for the suit is anticipated.

"If there is something we can do from a government standpoint to go after these banks or these lenders, we should," said Commission Chairwoman Deidre Malone, who said she was largely unaware of the suit's particulars.

Memphis City Council Chairman Myron Lowery said he needed more information before expressing an opinion, but added that filing the suit was something Memphis should consider.

The suit would be similar to litigation filed in Baltimore, Cleveland, San Diego and other

cities. But locally, it would be the first of its kind brought by governments against national banks for predatory lending.

Much like the Baltimore case, which was filed against Wells Fargo Bank in January and remains pending, local leaders are alleging that various still-unnamed national lenders have violated fair-housing laws by targeting minority neighborhoods with sub-prime and sometimes fraudulent or predatory loans employing such means as falsifying incomes on loan applications.

In a practice called "reverse redlining," the lenders placed borrowers in targeted minority communities into loans they could not afford, later forcing them to go into foreclosure.

According to the county's resolution, the goal of the proposed litigation would be to obtain injunctive relief, meaning a halt to foreclosures, and financial relief -- some officials speculate the suit could ask for \$100 million or more -- to cover damages brought to taxpayers by unlawful lending practices.

The suits brought by Baltimore and Cleveland have not yet reached a settlement. However, a recent multi-state predatory lending suit brought against Countrywide Financial Corp., which was recently acquired by Bank of America, did result in a multi-billion dollar settlement, including direct loan relief for about 400,000 borrowers nationwide.

Even before the Wall Street meltdown earlier this year, Shelby County was plagued by high rates of sub prime lending and foreclosure.

Statistics vary, but according to data provided by the Memphis Area Legal Services, the number of foreclosure notices published countywide increased by 128 percent between 2000 and 2006, from 4,609 to 10,515.

The city of Memphis has recorded more than 58,800 foreclosures since 2000.

However, alternate numbers provided by the Shelby County Assessor's office, which document finalized foreclosures, reflect a less dramatic jump. They recorded 4,039 foreclosures in 2003, compared with 6,600 projected for 2008.

Webb Brewer, director of advocacy for Memphis Area Legal Services, said many of these foreclosures are a result of sub-prime and in some cases fraudulent lending.

Sub-prime loans, so called because they are risky and have relatively high interest charges, often have "exploding" adjustable rates, typically resulting in an increase of 30 to 50 percent on monthly mortgage payments, he said.

And in an article for an upcoming issue of the legal publication *Clearinghouse Review*, Brewer notes that these sub-prime loans have not been distributed evenly.

In 2006, more than 52 percent of all home-purchase made to black families were sub-prime, compared to the 40 percent for Hispanic families and the 22 percent for white families.

The foreclosures that result when borrowers fall behind on payments affect local government and, in turn, the taxpayers. A study by the nonprofit Center for Responsible Lending estimates that each foreclosure costs local government about \$20,000 in lost tax revenue -- mostly from decreased values in neighboring property.

Using this gauge, the city of Memphis has lost more than \$1 billion since 2000.

-- Alex Doniach: 529-5231



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