

Community Reinvestment Act Joint Public Hearing, August 12, 2010  
Panel Three: Frank Ford

Frank Ford:

Thank you. In 1977 Congress passed CRA to address urban decline and disinvestment brought about by the lending practices of banks and other depository institutions. Today, 33 years after the passage of CRA, banks regulated by CRA are still causing significant damage and disinvestment. The policies and practices employed by banks have changed and the law and its regulations must change to meet the changing times.

When CRA was first passed, the role of banks, the focus was on the role as a lender. Today the focus needs to be broadened to include two additional roles, first, purchasing and holding mortgages for securitized loan pools, second, acting as a mortgage servicer for other financial institutions who have purchased loans. Whether in their role of holding title to a mortgage or in their role as a servicer for mortgages, banks are engaged in four activities that were not envisioned by CRA but which contribute significantly to community decline and deterioration.

First, in their role as servicers, banks are the chief decision makers determining whether a home will remain occupied or become abandoned. It's not uncommon to see a servicer refuse to write off \$20,000 in principle that would have made a \$100,000 loan viable and would have enabled the home to remain occupied. Yet after the home is abandoned the servicer finds they can always sell the house for \$10,000. This kind of unsound business judgment damages the investors backing the mortgage, the homeowner who was forced out and the neighbors who live near the foreclosed home.

Second, banks are owning and holding property in violation of criminal housing codes and are now amongst the worst slum land lords in Cleveland, Ohio. Whether in their role as owner, trustee, servicer, the blatant and criminal violations of housing codes by banks is a slap in the face to homeowners complying with these codes.

Third, as for closing, banks have finally woke up to the realization that they could be held responsible for abandoned homes. One of their responses has been to dump these properties to out of state flippers and speculators. When banks dump these blighted homes, it's equivalent to putting defective and unsafe consumer products out in the stream of commerce.

Fourth, the most recent and troubling response of foreclosing lenders is to abandon the foreclosure process prior to taking title. This practice, commonly referred to as a bank walk away, leaves title in the name of the borrower who no longer lives in the house. The present system of CRA examination rating does not adequately take into consideration bank activity, which is harming communities.

I have four specific recommendations. First, mortgage servicing is not captured in any publicly accessible database and is essentially off the radar. Banks should be required to disclose the addresses of REO property they service. When a bank is examined the exam should include review of its role as a servicer. Second, complying with criminal housing codes, there should be a bold and unequivocal statement from regulatory agencies that failure to comply with local

housing codes is a criminal activity, which causes community disinvestment. CRA exams should include a review of the condition of foreclosed property. Examiners should contact local housing officials to invite their comment during the examination. Third, promoting responsible disposition of property, regulatory agencies should issue an REO code of conduct as a guide for regulated institutions and my materials include a sample. Examination of banks should include a review of the sales of REO property. Regulatory agencies should also reward financial institutions that adopt programs that divert low-value distressed property to beneficial owners like local land banks and municipalities, as pioneered by Fannie Mae and HUD with recent agreements they have with our new county land bank in Cleveland, taking responsibility for the condition of mortgage collateral. A lender contemplating filing a foreclosure action should be confronted with this question: If we proceed and our actions cause this home to be abandoned, are there any adverse consequences to us? Right now there are virtually none. Foreclosing lenders should be required by law to be responsible for the condition of the property if it becomes vacant at any time during the foreclosure process. At minimum your examination should hold banks accountable for the actions they take that contribute to property decline and disinvestment.

In closing I'll like to again thank you for the opportunity to testify. I would like to suggest that if it's possible, you consider convening a similar hearing in Cleveland. Cleveland was very hard hit by the foreclosure crisis and hit earlier than many other cities. For this reason Cleveland has actually had time to develop some very creative approaches. A hearing based in Cleveland could afford you an opportunity to hear from others. Thank you very much.