

Home Mortgage Disclosure Act Public Hearing, September 16, 2010
Panel Two: Thomas James

Thomas James:

Thank you, first I want to thank you, Governor Duke and the board staff as always, and certainly Cat for inviting me and for taking the initiative on the review of Reg C. At this point in time I think it's good to get going early and I really appreciate that. As an Assistant Attorney General in the state of Illinois, I want to focus on our shared mission that is enforcement agencies and policy makers in carrying out one of the three listed policy purposes of the act, of the HMDA Act, and that's the duty to identify discriminatory lending patterns and conduct in the mortgage marketplace. As you may be aware the office of the Illinois Attorney General's recently brought two major enforcement actions against national lenders. Those two lawsuits allege disparate impact and steering claims under our state's antidiscrimination and fair lending laws. Both lawsuits depended heavily on access to analysis of HMDA data.

For those who policed the mortgage market for unlawful discrimination HMDA reported data is probably the most critical and political tool we have at this point. We certainly take in consumer complaints, and we have close connections to the community but as an analytical tool there is no substitute. And this is especially true with respect to federal charters. The U.S. Supreme Court recently made clear that the states have authority to sue federal charters under our state fair lending laws. Nevertheless our authority to investigate those institutions is severely limited by the Water's decision. So we're caught in a strange situation where in a lot of ways, once we view what are apparent disparities, we've got to pull the trigger. Unfortunately our resources are limited and time's always at a premium, so our analysis of suspicious market phenomena is always informed by local community groups, academia, non-for-profit research organizations and press. And so they are in a better position in many cases to interpret the data. They have in many cases more expertise. And we have to be responsive to them. So, again, these institutions rely heavily on HMDA data and it's important that they have access to them.

I'd say when we do the investigations and up until, I guess, the Frank-Dodd bill goes into place, we were missing critical elements and, of course, the total loan to value or combined loan to value and total income are critical as well as credit scores and annual percentage rates and screen out a real problem for us, which would be false positives. And I can tell you that when we ask for data from nonfederal charters, we have at least 28 additional data points that we ask for in that process. So false positives, the waste of resources are critical to us, of enormous concern. I wanted to touch on ways of protecting privacy. Now, it's your job to take in the data and I think you should take as much data as you could possibly get given the utilities and economics of the folks you're getting it from, but we need to share that data. Certainly the top law enforcement entities should have access to that data. And certainly we want to see not-for-profit research organizations get as much of that data as is possible in light of privacy concerns, which we're always concerned with too. Finally, I wanted to touch on reverse mortgages. Just --.