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Fair Housing Act: Discrimination in the Distribution of Home Financing

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FAIR HOUSING ACT: DISCRIMINATION IN THE DISTRIBUTION OF HOME FINANCING—*Laufman v. Oakley Building and Loan Co.*, 408 F. Supp. 489 (S.D. Ohio 1976)

In February of 1976, Federal Judge David S. Porter of the Western Division of the Southern District of Ohio handed down a decision which significantly affects home financing organizations in this country. The ruling in *Laufman v. Oakley Building and Loan Co.*[1] marked the first federal court decision on "redlining,"[2] that is, refusal to make mortgage loans on residential property in a racially transitional neighborhood, regardless of the prospective borrower's creditworthiness or the condition of the borrower's property. Judge Porter held that redlining is illegal under the Civil Rights Act of 1968.[3]

The purpose of Title VIII of the 1968 Civil Rights Act, better known as the Fair Housing Act, is clearly expressed in the legislation's first sentence: "It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States."[4] Prior to the *Laufman* decision, several federal courts had upheld charges of discrimination in cases dealing with the rental or sale of housing[5] through a liberal interpretation of Title VIII legislation. For example, in *Williams v. Matthews Co.*,[6] the Eighth Circuit found that a policy of selling plots of land in a particular development only to approved builders operated to exclude blacks from home ownership in that area, and held that this practice was prima facie evidence of racial discrimination in violation of the Fair Housing Act. In another action brought under Title VIII, *Smith v. Sol D. Adler Realty Co.*,[7] the Seventh Circuit held that all

1. 408 F. Supp. 489 (S.D. Ohio 1976).

2. The term redlining refers to the practice of designating, with red lines on a map, areas in the community that are thought to represent bad risks to home mortgage institutions. Typically, redlined areas are parts of the community that have begun to shift in racial composition. Greenberg, *Redlining—Fight Against Discrimination in Mortgage Lending*, 6 LOYOLA U.L.J. 71, 72 (1975).

3. 42 U.S.C. §§ 3601-31 (1968)(pertaining to fair housing).

4. 42 U.S.C. § 3601 (1968).

5. Smith v. Stechel, 510 F.2d 1162 (9th Cir. 1975); Marr v. Rife, 503 F.2d 735 (6th Cir. 1974); United Farmworkers v. City of Delray Beach, 493 F.2d 799 (5th Cir. 1974); Zuch v. Hussey, 366 F. Supp. 553 (E.D. Mich. 1973).

6. 499 F.2d 819 (8th Cir. 1974). Plaintiffs sought relief against a housing policy of the defendant housing developers who specified that only certain approved builders could construct homes in a particular development. In effect, builders chosen by blacks were not permitted to build homes, even though the same builders when selected by whites, were permitted to build.

7. 436 F.2d 344 (7th Cir. 1970)(A white tenant and a prospective black sublessee sued the landlord for racially motivated refusal by the landlord to allow the sublease to transpire).

citizens shall have the same right as enjoyed by white citizens to lease or rent property.

These decisions were based on interpretations of 42 U.S.C. § 3604[8] dealing with sale or rental of property. However, prior to the *Laufman* case, judicial findings of 42 U.S.C. § 3605[9] violations were non-existent mainly because discriminatory financing techniques are extremely subtle.[10] Nonetheless, Title VIII was designed to prohibit all forms of discrimination, the "sophisticated as well as simple minded."[11] The court in *Zuch v. Hussey*[12] commented that the Fair Housing Act was intended to have the broadest objective and scope and to prohibit not only open, direct discrimination, but also all practices that have a racially discriminatory effect. When the "effect of racial discrimination is to herd men into ghettos and make their ability to own property turn on the color of their skin, it too is a relic of slavery."[13] In response to this interpretation of Title VIII, Arthur Kinoy[14] noted:

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8. 42 U.S.C. § 3604 (Supp. IV 1974), *amending* 42 U.S.C. § 3604 (1970) provides:
[I]t shall be unlawful—(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, *or otherwise make unavailable or deny*, a dwelling to any person because of race, color, religion, sex, or national origin. (b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, *or in the provision of services or facilities in connection therewith*, because of race, color, religion, sex, or national origin. (emphasis added).

9. 42 U.S.C. § 3605 (Supp. IV 1974), *amending* 42 U.S.C. § 3605 (1970):
[I]t shall be unlawful for any bank, building and loan association, insurance company or other corporation . . . to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, sex or national origin of such person . . . of the present or prospective owners, lessees, tenants, or occupants *of the dwelling or dwellings in relation to which such loan* or other financial assistance *is to be made or given* . . . (emphasis added).

10. The one-time open practice of denying mortgage loans in certain areas has been replaced by some more subtle practices. Frequently used methods of redlining are: charging higher prices for property that sells to whites at lower levels, and less favorable credit terms (higher interest rates and shorter pay-back periods) for property in certain designated neighborhoods. These subtle practices have, in some instances, made redlining violations difficult to detect. Duncan, Hood and Neet, *Redlining Practices, Racial Resegregation and Urban Decay: Neighborhood Housing Services As a Viable Alternative*, 7 URBAN LAWYER 510, 513 (1975).

11. United States v. City of Black Jack, 508 F.2d 1179, 1184 (8th Cir. 1975), *quoting* Williams v. Matthews Co., 499 F.2d 819, 826 (8th Cir. 1974).

12. 366 F. Supp. 553 (E.D. Mich. 1973).

13. Harris v. Jones, 296 F. Supp. 1082, 1084 (N.D. Mass. 1969), *quoting* Jones v. Alfred H. Mayer Co., 392 U.S. 409, 442-43 (1968).

14. Arthur Kinoy is Professor of Law, Rutgers School of Law; A.B., Harvard College; L.L.B., Columbia University; member of the New York Bar.

> If the ghettoization of America's black citizens is a "relic" of the slave system, then a compelling affirmative duty lies upon all levels of government to take measures to secure its prompt eradication. Failure to adopt and implement such measures calls for rapid and decisive judicial intervention. . . .[15]

I. THE LAUFMAN CASE

The judicial intervention alluded to above[16] was demonstrated by the *Laufman* case, which focused primarily on section 3605[17] of Title VIII, prohibiting racial discrimination by lending institutions in their home financing decisions. On February 23, 1974, Mr. Robert F. Laufman and his wife contracted to purchase residential property located in a racially integrated neighborhood in Cincinnati, Ohio. At several different times, the plaintiffs were advised by the defendant, Oakley, that 90 percent loans at 8.5 percent interest and 3 percent closing costs were available. In keeping with Oakley's policy to refuse or strictly control loans for home purchases in racially integrated sections of Cincinnati, Oakley refused the Laufmans' loan application due to the racial composition of the neighborhood. As a result, the plaintiffs incurred financial loss, including the additional costs of obtaining a loan at a higher interest rate.

The Laufmans sought a declaratory judgment and injunctive relief to restrain the defendants' discriminatory practices. The plaintiffs' principal allegation was that defendant Oakley was practicing redlining in violation of 42 U.S.C. §§ 3604 and 3605. Also alleged were violations of 42 U.S.C. § 2000d,[18] and regulations expressly prohibiting such conduct issued by the Federal Home Loan Bank Board.[19] The defendants moved for summary judgment con-

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15. Kinoy, *The Constitutional Right of Negro Freedom Revisited: Some First Thoughts on Jones v. Alfred H. Mayer Company*, 22 RUTGERS L. REV. 537, 551 (1968).

16. *Id.*

17. 42 U.S.C. § 3605 (1970).

18. 42 U.S.C. § 2000d (1970) provides that:

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

19. 12 C.F.R. § 528.2(a) (1976).

> No member institution shall deny a loan or other service rendered by the member institution for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or discriminate in the fixing of the amount, interest rate, duration, application procedures, collection or enforcement procedures, or other terms or conditions of such loan or other service because of the race, color, religion, sex, or national origin of. . . . (3) The present or prospective owners, lessees, tenants, or occupant of the dwelling or dwellings in relation to which such loan or other service is to be made or given; or (4) The present or prospective owners, lessees, tenants, or occupant of other dwellings in the vicinity of the dwelling or dwellings in relation to which such loan or

tending that the complaint did not state a claim for which relief could be granted within the provisions of the Fair Housing Act, and that the Federal Home Loan Bank Board had no authority to adopt regulations 12 C.F.R. §§ 528 and 531.[20] The Federal District Court for the Southern District of Ohio, in denying defendants' motion, ruled that the Laufmans had stated a cause of action under both sections 3604 and 3605. The court, noting the well-established principle that civil rights statutes are to be read expansively,[21] accepted the plaintiffs' contention that deference be given to the broad interpretation of the provisions by the Department of Housing and Urban Development and by the Federal Home Loan Bank Board.[22]

The court further ruled that the specific language of section 3604(a) not only prohibits conduct that constitutes a refusal to sell or rent, but also proscribes activity that "otherwise make(s) dwellings unavailable." Since the foregoing phrase has been applied by several circuit courts to a number of discriminatory practices unrelated to the sale or renting of property,[23] the court reasoned that the application of the phrase to prohibit redlining would not transgress the section's intent. By adopting an expansive interpretation of the Fair Housing Act, the court implicitly rejected the defendants' contention that the section be strictly construed to refer to "sale or rent" only. In fact, the court stated that even if it had adopted the narrower interpretation, the denial of the Laufmans' loan application would still fall within the section, as redlining.[24] In addition to finding a violation of section 3604, the court stated that section 3605 explicitly prohibits any building and loan company from denying a

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other service is to be made or given.

12 C.F.R. 531.8(c)(6) (1976). *Age, income level, or racial composition of neighborhood.* Refusal to lend in a particular area solely because of the age of the homes or the income level in a neighborhood may be discriminatory in effect since minority group persons are more likely to purchase used housing and to live in low-income neighborhoods. The racial composition of the neighborhood where the loan is to be made is always an improper underwriting consideration.

20. *Id.*

21. *See* Griffin v. Breckenridge, 403 U.S. 88 (1971); Daniel v. Paul, 395 U.S. 29 (1968); Mayers v. Ridley, 465 F.2d 630 (D.C. Cir. 1972); United States v. Real Estate Development Corp., 347 F. Supp. 776 (N.D. Miss. 1972).

22. The Department of Housing and Urban Development and the Federal Home Loan Bank Board are agencies entrusted with enforcement of the Fair Housing Act. The Fair Housing Act provides:

All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this subchapter and shall cooperate with the Secretary [of HUD] to further such purposes. 42 U.S.C. § 3608(c) (1970).

23. Kennedy Park Homes Ass'n v. City of Lackawanna, 436 F.2d 108 (2d Cir. 1970); Zuch v. Hussey, 366 F. Supp. 553 (E.D. Mich. 1973).

24. Laufman v. Oakley Bldg. and Loan Co., 408 F. Supp. 489, 493 (S.D. Ohio 1976).

loan "because of the race . . . of the present or prospective owners, lessee, tenants, or occupants of the dwelling in relation to which such loan . . . is to be made or given." The court read the language as an outright prohibition of redlining.

II. Legislative Intent of 1968 Civil Rights Act

In order to interpret the applicable sections in accord with the generally expressed legislative purpose,[25] the *Laufman* court reviewed the legislative history of the 1968 Act.[26] Of primary congressional consideration in 1968 were the riots and civil disturbances that had plagued the heavily black-populated cities the previous summer. These racial uprisings focused attention on the discontent of the people trapped in the nation's ghettos. Congress and the nation clearly recognized the need for curing this long-developing social illness.

Moral considerations initially motivated Congress to examine racially segregated housing and its causes.[27] The legislative body was acutely aware of the interdependency between housing discrimination and other areas of racial injustice. For instance, educational and occupational opportunities were drastically diminished due to ghettoization.[28] Further, in 1967, the vast majority of the metropolitan black population resided in central cities. Thus, the highest level of unemployment was found among those people not able to afford commuting costs from the inner city to jobs which were moving to the suburbs.[29] Senator Walter Mondale, who drafted section 3604 of Title 42, noted that the "reach of the proposed law was to replace ghettos by truly integrated and balanced living patterns."[30]

During the congressional debate on the Civil Rights Act of 1968, the final report of the Commission on Civil Disorders[31] was released. Congress took a special interest in the Commission's conclusions on "white flight"; *i.e.*, withdrawal from or refusal to enter neighborhoods where large numbers of blacks were moving or residing. Among the chief causes of "white flight" was the unavailability of home financing in transitional areas. The lack of financing virtually

25. Passengers Corp. v. Passengers Ass'n, 414 U.S. 453 (1974).

26. 168 *U.S. Code Cong. & Adm. News* 1837 (1968).

27. *Id.*

28. Comment, *The Federal Fair Housing Requirements: Title VIII of the 1968 Civil Rights Act*, 1969 Duke L.J. 733, 736-37 (1969).

29. Dubofsky, *Fair Housing: A Legislative History and a Perspective*, 8 Washburn L.J. 149, 153 (1969).

30. 114 Cong. Rec. 3422 (1968).

31. President's Committee on Urban Housing (The Kaiser Committee), A Decent Home (1968).

eliminated the opportunity for white families to move to racially transitional areas. A key factor in the perpetuation of white flight to the suburbs was the difficulty in securing mortgage money to finance inner city dwellings. Unless the reins on mortgage money were freed, many once-populated city neighborhoods were destined for abandonment.[32] In sum, racial segregation caused by discriminatory lending practices is self-perpetuating.[33]

Against this background of social injustice, passage of the 1968 Civil Rights Act was inevitable. The potentially expansive interpretation of the Act, declaring discriminatory housing practices to be violative of the "letter and spirit" of the law, seemed capable of encouraging lending institutions to loosen the reins on mortgage money in fringe areas. The agencies, however, entrusted with implementation and regulation of home loan money were lax in their duties.[34]

III. Finance Industry Response

The result has been ineffective implementation of the Fair Housing Act's mandate to eliminate discrimination in home financing. The chief barrier to eliminating mortgage discrimination has been the persistent belief that sound business judgment requires the practice of racial segregation.[35] Lenders are quick to point out that the safety of depositors' investments must be protected. Saul B. Klaman, chief economist for the National Association of Mutual Savings Banks, speaks for the industry in noting that legislation like the Fair Housing Act is pressuring lenders to advance financing without regard for the quality of the neighborhoods, a mandatory lending consideration.[36]

Studies, however, have shown that decreases in property values seldom occur in integrated neighborhoods.[37] Further, when a property value decline does follow integration, it is often the result of a self-fulfilling prophecy attributable to a belief by white residents, brokers, and lenders that devaluation will occur.[38]

If uniformity in non-discriminatory lending could be attained, most real estate brokers would sell or rent to the first buyer who

32. Greenberg, *supra* note 2, at 89.

33. Searing, *Discrimination in Home Finance*, 48 N. D. Law. 1113, 1115 (1973).

34. The four agencies are Comptroller of Currency, Federal Reserve Board, Federal Depositor's Insurance Corporation, and the Federal Home Loan Bank Board. Searing, *supra* note 33.

35. United States Commission on Civil Rights, Housing 140-41 (1961).

36. Bus. Week, March 22, 1976, at 143.

37. L. Laurenti, Property Values and Race 47-57 (1961).

38. *Id.* at 25.

could meet their terms, provided the broker and/or lender did not feel the pressure described by William J. Levitt, the largest of the nation's homebuilders:

> Integration has certainly not hurt us . . . [but] any homebuilder who chooses to operate on an open occupancy basis, where it is not customary or required by law, runs the grave risk of losing business to his competitor who chooses to discriminate. The remedy [of equal housing opportunities for all] would create a desirable situation where when every seller or landlord must by law treat his customers equally, there will be no risk of loss for those who do not.[39]

IV. Prior Case Law

Racially discriminatory practices in the home financing industry are often disguised by policies which on their face appear neutral. For example, some lending institutions place more stringent conditions on loans to low-income, inner-city residents, such as higher interest rates, shorter terms, and larger payments.[40] Because of these seemingly neutral practices, lending institutions were able to continue their discriminatory lending patterns under a guise of legitimacy. In order to implement the intent of the home financing section of the Fair Housing Act, 42 U.S.C. § 3605, courts have recognized a need to apply more lenient plaintiff standards of proof and restrict the often-used compelling business necessity defense.

To enable injured parties to enforce the spirit of the Act, courts have shifted the burden of proof of discriminatory practices by using an objective rather than subjective test. This technique, known as effect analysis, requires the plaintiff to show only that the defendant's conduct actually or predictably resulted in racial discriminatory consequences. "Effect, not motivation, is the touchstone because clever men may easily conceal their motivations."[41]

The case of *United States v. City of Black Jack*[42] is an illustration of this effect analysis approach. The plaintiffs alleged that the city of Black Jack had denied people housing, on the basis of race, by adoption of a zoning ordinance prohibiting construction of multifamily dwellings, including proposed federally subsidized low-income integrated housing developments. The Eighth Circuit ruled that "since the ordinance was shown to have a racially discrimina-

39. Dubofsky, *supra* note 29.

40. Comment, *Mortgage Discrimination: Eliminating Racial Discrimination in Home Financing through the Fair Housing Act of 1968*, 20 St. Louis U.L.J. 139, 143 (1976).

41. United States v. City of Blackjack, 508 F.2d at 1185; United States v. Pelzer Realty Co., 484 F.2d 438 (5th Cir. 1973); Smith v. Sol D. Adler Realty, 436 F.2d 344 (7th Cir. 1970).

42. United States v. City of Blackjack, 508 F.2d 1179 (8th Cir. 1974).

tory effect, it could be justified only on a showing of compelling governmental interest. . . ." The court held further that "artificial, arbitrary, and unnecessary barriers based on racial classification must give way in the housing field where the result is the segregation of low income blacks from a white neighborhood."[43]

Not only has the plaintiff's burden been eased by use of effect analysis, courts have gone further by requiring lending institutions to defend their practices on the basis of compelling business necessity, rather than simple necessity. Formerly, institutions called to task over financing policies were able to defend their practices on the basis of professed business necessity.[44] More recent decisions,[45] however, have virtually eliminated use of the business necessity defense by interpreting the concept narrowly. To maintain such a defense, courts require proof that a discriminatory practice is essential to safe and efficient operation of the business and necessary to avoid extreme adverse financial impact. In the case of *United Farmworkers v. City of Delray Beach,*[46] a farm workers organization and individual farm workers brought an action against the city planning board. The suit alleged racial discrimination in the city's refusal to permit a proposed housing project to tie into the city's existing water/sewer system. The city claimed that its sewer system was already overburdened, although it had recently approved use of the system by a commercial developer in the same area. The Fifth Circuit held that the plaintiffs had established a prima facie case of racial discrimination under 42 U.S.C. § 3604, because the city had not sustained the heavy burden of demonstrating that refusal of the permit was essential to promote a compelling municipal interest. Thus, without a legitimate basis, the proposition that racial integration has a negative effect on property value and that blacks represent poor credit risks should not be upheld as genuine defenses under this stricter standard of "compelling business necessity."[47]

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43. Related to this concept of effect analysis is a method by which courts have concluded actual discrimination has occurred. Recent cases have recognized the use of statistical data to charge lenders, employers, and realty companies with violations of Title VIII provisions. Weather v. Peters Realty Co., 499 F.2d 1197 (6th Cir. 1974); Hodgson v. First Federal Savings and Loan Ass'n, 455 F.2d 818 (5th Cir. 1972); Parkham v. Southwestern Bell Telephone Co., 433 F.2d 421 (8th Cir. 1970).

44. Jones B. Lee Way Motor Freight, Inc. 431 F.2d 245 (10th Cir. 1970); Local 189, United Papermakers and Paperworkers v. United States, 416 F.2d 980 (5th Cir. 1969).

45. United Farmworkers v. City of Delray Beach, 493 F.2d 799 (5th Cir. 1974); United States v. City of Blackjack, 508 F.2d 1179 (8th Cir. 1974); Williams v. Matthews Co., 499 F.2d 819 (8th Cir. 1974).

46. *Id.*

47. Comment, *supra* note 40, at 156.

V. THE LAUFMAN RATIONALE

When the *Laufman* case was presented to the federal district court, the basis for the decision had already been laid by court decisions which broadly interpreted Title VIII provisions of the 1968 Civil Rights Act.[48] These cases reflected the nation's objective of "a decent home and a suitable living environment for every American family. . . ."[49] At the same time, the Federal Home Loan Bank Board and the other agencies entrusted with the implementation of the legislation's intent were inactive.[50] This gave the *Laufman* court additional background against which to support a decision that would fulfill Congressional intent. In addition, the court recognized recent decisions[51] dealing with detection of racially discriminatory practices and requiring a stricter interpretation of business necessity.

Another factor that weighed heavily in the court's decision to declare redlining illegal was the December, 1975 passage of the Home Mortgage Disclosure Act.[52] Effective June 1, 1975, the bill requires federally regulated lending institutions with more than $10 million in assets to report the number and size of the loans by census tracts.[53] The *Laufman* court concluded that the new act was indicative of the prevailing concern with redlining, since the legislative debates demonstrated a strong disapproval of redlining wherever it existed. The court implied that the new law would provide more ammunition for the fight against home financing discrimination.

Combining the Home Mortgage Act with 42 U.S.C. § 3605 provides powerful authority for ensuring enforcement of anti-discrimination policies in home financing. Further, the data to be generated via the lending institutions' compliance with the Act will provide the statistical inferences from which the "effect analysis" technique of detecting discrimination practices could be applied.[54] The combination of court decisions, most notably the *Laufman* case, and legislation such as the Home Mortgage Disclosure Act has

48. Cases cited note 5 *supra*.

49. 42 U.S.C. § 1441 (1970).

50. When an agency entrusted with the function of overseeing home financing practices fails to effect the important task, such a neglect of duty cannot be said to be an exercise of that power. Searing *supra* note 33, at 1123, 1122-27.

51. Cases cited notes 41 & 45 *supra*.

52. 12 U.S.C.A. §§ 2801-09 (Supp. 1 1976).

53. Senator Jake Garn (R-Utah) registered a complaint that the law "is a first step toward credit allocation." Representative Andrew Maguire (D-New Jersey) took an opposite view, noting that "maybe we can nudge the decision makers to be a little more responsible." *See* note 36 *supra*.

54. *See* cases cited in notes 41 & 45 *supra*.

created some change in attitudes among lenders; they have suddenly found it necessary to give more financial assistance to revitalize inner-city neighborhoods. The city of Atlanta provides the most dramatic example. There, seventeen financial institutions have contributed over $60 million to help rebuild deteriorating downtown residential areas.[55] Other instances of dramatic changes in loan policies have occurred—lending institutions are putting dollars into neighborhoods formerly ignored.[56] The mortgage pool concept permits a variety of banks to share the risk inthe event of declining property values or foreclosure. With the pool arrangement, banks also are consoled in knowing they will not be the only lender in the area.

Although banks throughout the country continue to develop affirmative programs to comply with anti-redlining policies and to avoid pressures of both government and consumer groups, their compliance is with much reluctance.[57] Lenders are of the opinion that the problem of declining neighborhoods is not theirs alone to solve. Harry Brush, President of the National Association of Mutual Savings Banks, envisions a federal inner-city mortgage program with government mortgage insurance to help spread lending risks.[58]

An important question that the nation's lending institutions are posing these days is: "Is it the responsibility of private enterprise to take risks alone without the impetus of government on one level or another?"[59] It is a question whose answer will only be found as the courts continue to confront cases like *Laufman*.[60]

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55. BUS. WEEK, April 26, 1976, at 36.

56. In Denver, five banks and one savings and loan have contributed $5.8 million for inner-city mortgages. A separate group of savings and loans has established a panel to review rejected mortgage applications again. In Boston, a $37 million pool was set up for a deteriorating area of the city. In Dallas, banks are providing $1 million in low interest loans for restoration of old homes. In Los Angeles, Homes Savings and Loan Association has teamed with a black-owned Family Savings and Loan and a Chicano-owned San Francisco Savings and Loan and has agreed to buy 85% of all loans made by the two smaller banks. *Id.* at 36-37.

57. See notes 36 & 55 *supra*.

58. *Id.*

59. BUS. WEEK, March 22, 1976 at 144.

60. In the three other reported instances where discrimination charges were brought under 42 U.S.C. § 3605, the cases were either settled or a finding made without reaching the merits of the case. Lindsey v. Modern American Mortgage Co., 383 F. Supp. 293 (N.D. Texas 1974)(decision not reached on the merits); Hunter v. Atchinson, 466 F.2d 490 (1974)(final resolution was a settlement); Harrison v. Otto G. Heinzeroth Mortgage Co., 414 F. Supp. 66 (N.D. Ohio 1976) (motion to dismiss denied).