

Supreme Court Watch: Cities CAN Sue Banks for Predatory Lending

2 min read

May 5, 2017

Over the last ten years, cities like Miami, Florida have experienced a decrease in property tax revenues, an increase in demand for police, fire and other municipal services, and an increase in foreclosures and vacancies, particularly in minority neighborhoods. In what appears to be a response to this environment, the City sued Bank of America and Wells Fargo for violations of the Fair Housing Act, claiming they intentionally issued riskier mortgages on less favorable terms to African-American and Latino customers. According to the City, this discriminatory conduct caused higher foreclosure rates and vacancies among minority borrowers, which in turn lowered property values, diminished property-tax revenues and increased the demand for municipal services to remedy the blight that foreclosures and vacancies generate.

In a 5 to 3 decision issued earlier this week (newly appointed Justice Neil Gorsuch took no part), the United States Supreme Court vacated dismissal of the City's lawsuit. The Court concluded that the City's "financial injuries" fell within the zone of interests the FHA protects. At the same time, the Court found error in the adequacy of the City's complaint, because the City only alleged that the losses claimed were foreseeable. On remand, the Court instructed that FHA requires more than just foreseeability: "some direct relation between the injury asserted and the injurious conduct alleged." The Court recognized that Congress did not intend FHA to provide a remedy wherever the ripples of housing law violations travel.

While the Court has opened the door to FHA suits, the decision does not necessarily enable a city to recover all revenue losses from banks when foreclosures occur in its neighborhoods. Nor does it mean (as Bank of America and Wells Fargo argued) that every plumber and restaurant owner in town can sue banks for lost business when people move out of the neighborhood. This decision allows cities to make their case under the FHA. What remains to be seen is whether a city, like Miami, can demonstrate the direct relation between lost revenue, increased expenses and the alleged discriminatory conduct. The Supreme Court appears skeptical.

The case is *Bank of America Corp. v. Miami*, 15-1111 (5/1/17)

[Read the Supreme Court Opinion](#) (PDF)

Hinshaw & Culbertson LLP is a U.S.-based law firm with offices nationwide. The firm's national reputation spans the insurance industry, the financial services sector, professional services, and other highly regulated industries. Hinshaw provides holistic legal solutions—from litigation and dispute resolution, and business advisory and transactional services, to regulatory compliance—for clients of all sizes. Visit www.hinshawlaw.com for more information and follow @Hinshaw on LinkedIn and X.

Topics

Supreme Court Of The United States, Fair Employment And Housing Act, Mortgage Loans, City Of Miami