



CITY OF OAKLAND
newsrelease
Office of the City Attorney

FOR IMMEDIATE RELEASE

January 31, 2005

Contact: Erica Harrold, Communications Director
(510) 238-3148

OAKLAND DEMANDS TOUGHER CONTROLS ON PREDATORY LENDING AFTER COURT DECISION

(Oakland, CA)-Today, in a split 4-3 decision issued by the California Supreme Court, Oakland's anti-predatory lending ordinance was deemed "preempted" by state law.

"Obviously we're very disappointed with the decision. It really couldn't have been decided any more closely," said City Attorney John Russo referring to the 4-3 split by the Justices.

Reversing a decision by the California Court of Appeal, four of the California Supreme Court justices argued that a state anti-predatory lending law superceded local authority to regulate predatory lending. The state law, enacted shortly before Oakland's anti-predatory lending ordinance was unanimously passed by the City Council in October 2001, offers minimum protections for "house rich and cash poor," homeowners who are targets for predatory lending practices.

Chief Justice Ronald George penned the dissenting opinion describing state law as "establish(ing) a floor, not a ceiling" for the regulation of predatory lending practices. The opinion, which was also signed by Justices Kennard and Moreno, read, "Local regulation thus is not only constitutionally valid, but practically vital to the affected communities. Although predatory lending certainly is a matter of statewide concern, the specific interests of the communities most affected by the banned practices make the regulation of this field particularly amenable to local variations."

"We couldn't agree more with Chief Justice George's dissenting opinion," said Russo. "If the court won't allow us to protect our most vulnerable citizens, it's time for the State Legislature to provide some legislation with real protections."

Unlike state law, Oakland's predatory lending ordinance required borrower counseling for high-cost home loans, prohibited pre-payment penalties for such loans, and made purchasers of high-cost home loans responsible for predatory lending practices. The state law does not provide these same consumer protections.

The City Council enacted the ordinance after hearing testimony from consumer groups and predatory lending victims on how unscrupulous lenders were targeting elderly homeowners living alone in Oakland's low-income and minority communities for these unfair loans.

###