



CITY OF OAKLAND
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Office of the City Attorney

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Contact: Karen Boyd, Communications Director
(510) 238-3148

CITY OF OAKLAND WINS LANDMARK CASE
Court Of Appeals Upholds Anti-Predatory Lending

OAKLAND, CA – The City of Oakland's anti-predatory lending ordinance has been upheld by the California Court of Appeal in a landmark decision that will impact cities throughout the nation that are trying to protect homeowners from unethical mortgage lending practices.

In its decision released Wednesday, the Court of Appeal of the First Appellate District in San Francisco threw out a challenge to the Oakland law, saying "no part of the ordinance is preempted by state law."

The American Financial Services Association (AFSA), a trade organization for what are called "sub-prime" lenders, had filed suit against the ordinance, which was unanimously passed by the Oakland City Council on October 2, 2001, contending it was preempted by state lending laws.

Until the state Court of Appeal decision, the trade organization in the past had been able to tie up in the courts or successfully challenge anti-predatory lending ordinances in a number of cities across the country, including New York, Minneapolis, Cleveland, Dayton, Toledo and Los Angeles.

"This is a resounding victory for the citizens of Oakland," said City Attorney John Russo. "Predatory lending is an unethical and malicious tactic that targets minorities and the elderly. Predatory lenders are now on notice that the gouging of consumers will no longer be tolerated. I applaud the leadership of the Oakland City Council, in particular Council President Ignacio De La Fuente, for passing this cutting-edge ordinance and using their legislative authority to preserve justice and fairness for all members of our community."

Joseph W. Cotchett of Cotchett, Pitre, Simon & McCarthy of Burlingame, the law firm hired by Oakland to defend the ordinance, "This decision will change the way these lenders do business in California and the nation."

"It is without a doubt an unprecedented victory for minority and elderly homeowners who in the past had no legal protection against unethical lenders," said Cotchett who argued in the trial court.

Steven N. Williams of CPS&M, who argued the case before the Court of Appeal, said, "This decision confirms that it is up to Oakland, and not Washington D.C. or Sacramento, to determine what is needed to protect Oakland residents from unscrupulous business practices that lead to foreclosures, bankruptcies and urban blight. California's constitution gives Oakland this power, and the court confirmed that the rights of Oakland and its residents prevail over the rights of predatory lenders."

The decision will have an immediate and major impact on the City of Los Angeles. The Los Angeles City

Council had agreed in March 2003 to temporarily stop drafting regulations to enforce its own anti-predatory lending ordinance in exchange for ASFA, the subprime trade group, shelving its lawsuit against the city. Both sides agreed to wait on the outcome of the group's suit against Oakland before taking the matter to court in Los Angeles.

In its decision, the Court of Appeal said, "The Oakland City Council heard evidence, received staff reports, and made findings that predatory lending practices were having a particularly severe impact on Oakland, causing 'conditions of blight, the loss of affordable housing....increased displacement and economic dislocation,' among other ills.

"The Council found that Oakland resident were prime targets for predatory practices due to the city's relatively high property values and large population of low-income and minority homeowners."

The Oakland ordinance prohibits abusive lending terms and practices, particularly high-cost home loans that charge high interest rates or points and fees. One of its most important aspects requires borrowers to receive independent loan counseling prior to closing a high-cost home loan.