Office of
The City Attorney
City of San Diego

MEMORANDUM
MS 59

(619) 236-6220

DATE: July 11, 2017

TO: Honorable Mayor and City Councilmembers

FROM: City Attorney

SUBJECT: **Update re: *Wells Fargo & Co. v. City of Miami and Bank of America Corp. v. City of Miami***

In October 2016, the City of San Diego (City) joined San Francisco, Los Angeles, and twenty-four other cities in signing an amicus ("friend of the court") brief to the United States Supreme Court in support of the City of Miami in *Bank of America Corp. v. City of Miami, Fla.*, 137 S. Ct. 1296 (2017) (attached). The City of Miami sued Wells Fargo & Co. and Bank of America Corporation under the Fair Housing Act (FHA), asserting that discriminatory lending practices by those institutions created a decreased property tax base and increased municipal costs due to additional services needed in areas with high foreclosure rates. This memo provides a status update, concerning the Supreme Court's recent ruling in this case.

The Supreme Court found that municipalities have standing to sue for violations of the FHA. The district court initially ruled that the City of Miami did not have standing, but the Eleventh Circuit reversed, and the banks appealed to the Supreme Court. The City joined other cities nationwide in submitting an amicus brief urging the Supreme Court to preserve municipalities' standing as "aggrieved persons" under the FHA. The Supreme Court found that the City of Miami had standing because municipalities were within the FHA's "zone of interests", which Congress had intended to be broadly interpreted.[1]

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[1] The Supreme Court also noted that Congress had not amended the FHA since the Court's previous rulings that municipalities could sue for FHA violations The Court reversed the Eleventh Circuit's ruling on the issue of proximate cause under the FHA, an issue not considered in the amicus brief.

This decision does not affect any current litigation in the City, but our Office wanted to provide this update because of the City's involvement in the amicus brief. Please let us know if you have any questions about the ruling or the amicus brief.

MARA W. ELLIOTT, CITY ATTORNEY

By /s/ Jennifer L. Berry
Jennifer L. Berry
Deputy City Attorney

JLB:sc
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Attachment:
Amicus Brief filed in *Wells Fargo & Co. v. City of Miami*

2016 WL 5940646 (U.S.) (Appellate Brief)
Supreme Court of the United States.

BANK OF AMERICA CORP., et al., Petitioners,
v.
CITY OF MIAMI, FLORIDA, Respondent.
Wells Fargo & Co. and Wells Fargo Bank, N.A., Petitioners,
v.
City of Miami, Florida, Respondent.

Nos. 15-1111, 15-1112.
October 7, 2016.

On Writs Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

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***1** INTRODUCTION AND INTEREST OF *AMICI CURIAE*[1]

Amici local governments have longstanding and direct experience and expertise with the Fair Housing Act (FHA or the Act) and the important role it plays in promoting fair housing practices in their jurisdictions. *Amici* support the Eleventh Circuit's conclusion that standing under the Fair Housing Act extends to the fullest limits permitted under Article III. And *amici* agree that respondent's allegations in these cases are sufficient to satisfy the Fair Housing Act's causation requirement. *Amici* focus this brief on the issue in these cases that local governments are uniquely positioned to address: Why local government lawsuits challenging discriminatory practices that perpetuate housing segregation and its negative effects fall within the interests the Fair Housing Act protects.

Amici are committed to furthering the Fair Housing Act's goal of creating a more inclusive, integrated society and to remedying the decades of pernicious housing discrimination that many municipal governments unfortunately perpetuated. *See United States v. Yonkers Bd. of Educ.*, 624 F. Supp. 1276, 1364-65 (S.D.N.Y. 1985). The Fair Housing Act is a critical tool that municipalities have used for decades to snuff out ***2** discrimination and combat residential segregation. Indeed, certain *amici* have brought Fair Housing Act suits similar to those at issue in these cases. *See, e.g.,* *City of Los Angeles v. Wells Fargo & Co.*, 22 F. Supp. 3d 1047 (C.D. Cal. 2014); *Cobb County v. Bank of Am. Corp.*, No. 1:15-CV-04081-LMM, 2016 WL 2937467 (N.D. Ga., May 2, 2016); *City of Miami Gardens v. Wells Fargo & Co.*, No. 14-22203-CIV, 2014 WL 6455660 (S.D. Fla., Oct. 1, 2014); *DeKalb County v. HSBC N. Am.*, No. 1:12-CV-03640-SCJ, 2013 WL 7874104 (N.D. Ga., Sept. 25, 2013). *Amici* are well-suited to elucidate how petitioners' view of the Fair Housing Act's scope would hamstring local governments' efforts to maintain inclusive environments for their residents.

Amici are also well-positioned to respond to petitioners' insistent assertions that respondent City of Miami does not seek to combat segregation, promote integration, or further any of the FHA's aims through this litigation. Indeed, petitioners go as far as to characterize respondent's theories as "indifferent to the race, national origin, or other protected status" of the victims of predatory lending practices. Wells Fargo Br. 32. These arguments are contrary to *amici*'s experiences, which show that predatory lending and similar practices create and entrench racial segregation and impose economic, social, and practical costs on vulnerable neighborhoods and communities. These are the very harms that Congress set out to eradicate when it enacted the FHA. *Amici* respectfully urge the Court to affirm the Eleventh Circuit's interpretation of the Fair Housing Act, which maintains local governments' ***3** ability to combat discrimination and to further the ideals of inclusion and integration that led to the Act's enactment.

SUMMARY OF ARGUMENT

The Fair Housing Act was part of a national response to urban unrest and persistent poverty - a response that recognized that the harms from racial segregation and its attendant evils fell disproportionately on our Nation's urban centers. In enacting the Fair Housing Act and related portions of the Civil Rights Act of 1968, Congress understood the important role that cities needed to play in promoting desegregation and the serious consequences that would befall municipalities if housing inequality persisted. In the decades that followed, cities relied on the Fair Housing Act to bring suit against discriminatory actors whose practices contributed to segregation and substandard housing in minority communities. The courts of appeals, in turn, consistently interpreted the Act to permit local governments to pursue these claims.

Petitioners' attempt to recast the Act as excluding cities and local governments from any zone-of-interests test it may impose is inconsistent with the Fair Housing Act's history and background. That context demonstrates Congress's appreciation of the particular interest cities have in eradicating discriminatory housing practices. Congress directed the Fair Housing Act toward the structural forms and effects ***4** of housing discrimination that uniquely impact cities and metropolitan areas. Congress understood that the increased crime, poor public health and educational outcomes, and weakened employment prospects that plagued the inner city were part of a vicious cycle that housing discrimination spawned. In addition, Congress was aware that cities' economic prospects, social vitality, and civic functions were all impaired by these consequences of discriminatory practices. Congress recognized, and sought to mitigate, these serious impacts on cities by enacting the FHA. Cities' interests lie at the very heart of the Act's mission.

Amici's experiences also confirm that systemic forms of discrimination continue to harm municipalities, and that the predatory lending practices at issue in these cases are such a form of discrimination. Recent studies of our urban centers confirm that structural forms of housing discrimination - which create or perpetuate residential housing segregation along racial lines - not only harm individuals but also impose real costs on neighborhoods, cities, and metropolitan areas. Residential segregation impairs the educational opportunities cities can offer to young residents; it leads to increased levels of crime, thereby contributing to neighborhood decay; and it interferes with access to jobs, which makes a segregated city a less attractive place for businesses to locate and exacerbates the concentration of poverty in the segregated urban core. These effects of housing discrimination and segregation continue to impact cities in tangible ways, as they make cities less attractive places to live, ***5** decrease levels of public and private investment, and require cities to provide costly municipal services to aid troubled neighborhoods. This experience with discrimination and segregation contradicts petitioners' attempt to draw a line between "financial injuries" - which petitioners claim the FHA does not address - and an "injury to an interest in non-discrimination" or "loss or damage arising from segregation." Wells Fargo

Br. 9; Bank of Am. Br. 17. Rather, the effects of discrimination impose financial costs on cities that are inextricably connected with segregation and discrimination itself - and are therefore costs that the FHA must reach.

The predatory lending practices at issue in these cases are precisely such forms of discrimination. *Amici* have observed that predatory lending and ensuing foreclosures have perpetuated the segregation of vulnerable groups and made it more difficult for cities to create inclusive communities. Long-term vacancies and blighted properties attract criminal activity, which affects the safety of residents and makes neighborhoods less welcoming to visitors and new businesses. Foreclosures also depress property values, which likewise drives out businesses, diminishes property tax revenues, and accelerates the decline of affected neighborhoods. The result is that cities affected by high foreclosure rates are beginning to resemble the inner-city areas roiled by violence and poverty in the 1960s. They are more segregated, economically depressed, and limited in their ability to provide adequate services ***6** to residents than they would be absent the foreclosure epidemic.

Unless local governments are permitted to continue using the FHA to seek relief from the entities whose discriminatory practices have perpetuated the cycle of segregation and urban decay, it is possible there will be no remedy for localities suffering from the consequences of predatory lending. Often those harms fall heavily on local residents who may not themselves have been the target of discriminatory conduct. If petitioners' cramped definition of "aggrieved person" prevails, there is a risk that no single individual will be well-positioned to use the FHA to seek relief. The result would be a sizeable enforcement gap in the FHA's reach, and the consequent inability of the FHA to address one of the practices contributing most directly to segregation and poverty in our Nation today.

ARGUMENT

I. The Fair Housing Act Targets Discriminatory Practices That Uniquely Impact Local Governments.

The Fair Housing Act's background and legislative history show that the Act was designed to address structural forms of housing discrimination and its negative effects - effects that Congress understood had an especially severe impact on the Nation's cities.

***7** 1. The Act was part of a national response to the urban riots of 1967 that crippled a number of the Nation's largest urban centers. The National Advisory Commission on Civil Disorders, known informally as the Kerner Commission, studied the history of the riots and concluded that pervasive discrimination and marked racial segregation in housing contributed significantly to the violence and unrest. *See Report of the National Advisory Commission on Civil Disorders* 10 (1968) [hereinafter *Kerner Commission Report*]; *see also Texas Dep't of Hous. & Cmty. Affairs v. Inclusive Cmtys. Project, Inc.*, 135 S. Ct. 2507, 2516 (2015). The Commission noted that housing discrimination caused a variety of ancillary negative effects that ultimately created a "clear pattern of severe disadvantage for [African Americans] as compared to whites" and led to intense frustration and disappointment in black communities. *Kerner Commission Report, supra,* at 136. The Commission identified high rates of crime, substandard housing, lack of access to jobs, and the inadequate availability of municipal services like healthcare facilities and sanitation as some of the chief difficulties that accompanied life in the "racial ghetto." *Id.* at 14, 28, 145, 266, 392. The Commission attributed the discrimination that caused these conditions to a variety of structural forces, "some obvious and overt, others subtle and hidden." *Id.* at 244.

The Commission also elucidated the serious harms that segregation and resulting unrest had inflicted on cities themselves. The Report recognized that segregation led to the "continuing social and economic ***8** decay of our major cities." *Kerner Commission Report, supra,* at 23. That decay stemmed not only from the riots themselves - which required cities to devote extraordinary amounts of municipal resources to curb the violence and redress the extensive damage to property [2] - but also from the segregation and persistent poverty that had led to the upheavals. The proliferation of segregated, poor inner-city communities required cities to spend increasing amounts on "every kind of public service: education, health, police protection, [and] fire protection." *Id.* at 393. Those "expenditures ha[d] strikingly outpaced tax revenues" and would continue to do so. *Id.* At the same time, private investment in the inner city was diminishing and employers increasingly chose to locate in the suburbs rather than the inner city, taking jobs out of the inner-city core and reducing employment options for city residents. *Id.* at 392. The result was an unending cycle of poverty that municipalities were increasingly unable to address. *Id.* at 392-93. For this reason, the Commission warned that a "commitment to national action on an unprecedented scale" was necessary to preserve the vitality of the country's great urban centers. *Id.* at 23.

***9** 2. Congress built upon the Commission's sentiments in enacting the Fair Housing Act. Congress's acknowledgment of the important role cities must play in eradicating housing segregation and its accompanying evils pervades the Act's legislative history. Congress understood that pernicious discrimination and segregation in housing, and the concentration of impoverished minority residents in the inner city, caused violence and unrest in the Nation's cities and towns. *See* 113 Cong. Rec. 19,352 (1967) (statement of Rep. Taylor) (describing "[o]ur large metropolitan areas" as "powder kegs"); *id.* (statement of Rep. Celler) ("The basic reason for discordance" is "discontent" stemming from segregation "and all its attendant evils."). Indeed, Congress was aware that "segregated neighborhoods" were "the fundamental cause of many social and racial problems we are experiencing today." 112 Cong. Rec. 18,533 (1966) (letter from Greater Pittsburgh Fair Housing Movement). The Fair Housing Act would combat discrimination in housing and promote integration, all in furtherance of Congress's ultimate goal of providing equal "jobs, education, housing, decent medical care, and opportunity" for inner-city minority residents. 113 Cong. Rec. 19,361 (1967) (statement of Rep. Edwards).

The Fair Housing Act's legislative history is replete with indicia of Congress's intention not only to eliminate discrimination and segregation, but also to eradicate urban "ghettos" and diminish the various costs that housing discrimination imposed on urban residents and their communities. Members of Congress ***10** repeatedly emphasized that residents of segregated neighborhoods were often relegated to "shameful" substandard housing units. 113 Cong. Rec. 19,368 (1967) (statement of Rep. Conyers, quoting New York Times July 19, 1967 editorial); *see also* 113 Cong. Rec. 22,848 (1967) (statement of Sen. Fong) ("The housing conditions in which many of our [black] citizens are forced to live are generally of inferior quality, and overcrowding is intense, particularly in our urban centers."). They knew housing discrimination to be a cause of this reality, insofar as it constrained the pool of housing stock available to black Americans. 112 Cong. Rec. 18,270 (1966) (statement of Sen. Scheuer). Congress also understood the "spreading effect of segregation in housing," namely, its tendency to produce segregation in schools and other "aspects of our daily lives." *Id.* Ending discrimination and consequent segregation was the key to eliminating many of the other issues plaguing black Americans in the inner city, particularly entrenched poverty and unequal access to jobs and education. 113 Cong. Rec. 22,844 (1967) (statement of Sen. Case) (explaining that "unequal housing, resulting from discriminatory and closed housing policies" contributes to "segregated overcrowded living conditions, inherently unequal schools, unemployment and underemployment").

Congress further recognized that the harms from segregation and discrimination affected not only individuals and neighborhoods, but also larger communities, including the "urban centers of America" and cities in particular. 114 Cong. Rec. 2987 (1968) ***11** (statement of Sen. Proxmire). Members of Congress were aware that "our cities are in trouble," 113 Cong. Rec. 19,361 (1967) (statement of Rep. Edwards), and that the lack of fair housing was an "urban crisis requir [ing] immediate congressional action," 114 Cong. Rec. 2274 (1968) (statement of Sen. Mondale). Indeed, some went as far as to say that segregated housing patterns were "the hardest kind of practical economic problem affecting all the urban centers of America." 114 Cong. Rec. 2987 (1968) (statement of Sen. Brooke).

Congress was acutely aware that putting an end to discrimination and segregation was critical to preserving the economic and social vitality of the Nation's cities and communities. 114 Cong. Rec. 2985-86 (1968) (statement of Sen. Proxmire). On the economic front, Congress understood that segregation, white flight, and poverty that persisted in the inner city impaired cities' economic prospects in a number of ways. Impoverished communities depleted cities' tax bases, causing direct economic harm. 114 Cong. Rec. 2274 (1968) (statement of Sen. Mondale); *see also* 114 Cong. Rec. 2993 (1968) (statement of Sen. Mondale) (arguing that refusing to pass fair housing legislation would be "to stand by and observe the destruction of our urban centers by loss of jobs and business to the suburbs, a declining tax base, and the ruin brought on by absentee ownership of property"). With inadequate resources at hand, cities found themselves unable to provide for their residents' needs, resulting in "inferior public education, recreation, health, sanitation, and transportation services and facilities" - particularly for black ***12** Americans living in the inner city. 113 Cong. Rec. 22,848 (1967) (statement of Sen. Fong); *see also* 114 Cong. Rec. 2276 (1968) (statement of Sen. Mondale) ("[I]t is virtually impossible to provide high quality education to disadvantaged minorities" due to residential segregation.).

Other indirect effects of segregation also threatened cities' economic vitality. Congress was evidently afraid that continued segregation would sound a death knell for the economic stability of urban centers. 114 Cong. Rec. 2988 (1968) (statement of Sen. Brooke) ("As segregation continues to grow ... will not the cities which house the majority of the [N]ation's industrial and commercial life find themselves less and less able to cope with their problems, financially and in every other way?"). Segregation caused businesses to leave urban centers and move to the suburbs, thereby decreasing private investment in cities and further diminishing the tax base. *See* 114 Cong. Rec. 2986-87 (1968) (statement of Sen. Brooke) ("[T]he financial and leadership resources of the cities have been severely depleted by the middle-class white movement to the suburbs."); *see also* 114 Cong. Rec. 3252 (1968) (statement of Sen. Muskie) ("A critical problem of the core city is the decline of industry"). Congress acknowledged that this pattern "deprived" a city "of the resources it needs to set its house in order." 114 Cong. Rec. 2987 (1968) (statement of Sen. Brooke). The flight of businesses to the suburbs also removed jobs from cities, further destabilizing segregated neighborhoods and embedding the roots of persistent poverty in ***13** minority communities. 114 Cong. Rec. 2993 (1968) (statement of Sen. Mondale); 114 Cong. Rec. 3235 (1968) (statement of Sen. Muskie) ("The exodus of industry from the city has been a bitter development" for inner-city residents.); *see also* 126 Cong. Rec. 31,691 (1980) (statement of Sen. Bradley) ("As business moves away from urban communities, where most poor and minorities live, to the suburbs ... the opportunity for access to employment disappears.").

In addition, Congress realized that segregation and discrimination threatened community social structures and civic institutions in ways that further "press [ed] with increasing force upon the cities" and destabilized local communities. 114 Cong. Rec. 2986 (1968) (statement of Sen. Brooke). Members of Congress understood that residential segregation tends to spawn segregation "in education, playgrounds, and all other aspects of our daily lives." 112 Cong. Rec. 18,270 (1966) (statement of Sen. Scheuer); *see also* 114 Cong. Rec. 3015, 3127 (1968) (statement of Sen. Hatfield) (noting that segregation in housing also caused segregation in "employment, education, public accommodation, religious worship, and social relations"). This persistent separation of communities along racial lines "g[ave] nourishment" to continued discriminatory beliefs, 112 Cong. Rec. 16,855 (1966) (statement of Rep. Celler); "prevent[ed] all Americans from learning to live together in one community," 112 Cong. Rec. 17,497 (1966) (statement of Rep. Minish); and heightened the oppression of minority groups due to the "visible disparity" between majority and minority conditions, 114 ***14** Cong. Rec. 3127 (1968) (statement of Sen. Hatfield). Further, the same structural forces that caused businesses to flee segregated areas also affected important social institutions, like "houses of worship," recreation clubs, and similar "social organizations." 114 Cong. Rec. 2988 (1968) (statement of Sen. Brooke). The absence of community institutions made it more difficult for minority communities to weather the problems with education, employment, and blight that already plagued the inner cities. *Id.* These destructive impacts on community structures interfered with cities' interests in creating inclusive communities and providing necessary services to their residents. 114 Cong. Rec. 3127 (1968) (statement of Sen. Hatfield).

As this context demonstrates, Congress enacted the Fair Housing Act against the backdrop of serious public concern about the future of America's urban centers. Congress adopted the Act not only to remedy the personal harms housing discrimination caused, but also to eradicate the segregation that resulted and which threatened the stability of the Nation's cities. Congress understood that discriminatory practices that create or entrench segregation or exacerbate its negative effects - such as poverty, job flight, and educational inequality - harm cities in direct, tangible ways. Cities' interests are hardly peripheral to congressional intent in enacting the FHA, as petitioners would have it; to the contrary, protecting the Nation's cities is one of the Act's primary goals.

3. The legislative history is consistent with the longstanding interpretation of the Fair Housing Act, ***15** which confirms that the Act addresses the systemic causes and structural effects of segregation and housing discrimination. This Court recently held that the FHA broadly aims to uncover and eradicate practices that may create or entrench segregated housing patterns and their negative repercussions. *Texas Dep't of Hous. & Cmty. Affairs,* 135 S. Ct. at 2522 (providing that liability for disparate impact discrimination under the FHA helps prevent segregated housing patterns and eliminates practices that "perpetuat[e] segregation"). That ruling was consistent with well-established authority recognizing that municipalities are harmed in various ways - including economically - by housing discrimination and can pursue remedies under the FHA. *See Gladstone Realtors v. Vill. of Bellwood,* 441 U.S. 91, 110-11 (1979) (finding the "adverse consequences" associated with segregation to include "[a] significant reduction in property values," which "directly injures a municipality by diminishing its tax base, thus threatening its ability to bear the costs of local government and to provide services"); *Trafficante v. Metro. Life Ins. Co.,* 409 U.S. 205, 211 (1972) ("[T]he reach of the [FHA] was to replace the ghettos 'by truly integrated and balanced living patterns.' " (quoting 114 Cong. Rec. 3422 (1968) (statement of Sen. Mondale))); *cf. Havens Realty Corp. v. Coleman,* 455 U.S. 363, 379 (1990) (holding that discriminatory practices that cause a "drain on [an] organization's resources" give that organization standing under the FHA). [3]

*16 II. Cities Have A Unique Interest In Eliminating Systemic Forces Of Housing Discrimination, Like Predatory Lending.

Amici's experiences substantiate the relationship between housing discrimination and the difficulties affecting our Nation's urban centers. Those experiences, together with established recent research, confirm that systemic forms of housing discrimination - like predatory lending practices - continue to impose significant costs on neighborhoods, cities, and metropolitan areas. Contrary to petitioners' claims, those costs are not purely financial harms, divorced from a city's interest in non-discrimination. Wells Fargo Br. 9, 28-29; Bank of Am. Br. 7. They are the very type of injuries to municipal interests in integration and equality that Congress understood the FHA would reach.

A. Housing Discrimination And Segregation Continue To Harm Cities.

Recent experience of *amici* and other cities demonstrates that the Fair Housing Act has not yet accomplished the goals Congress envisioned, namely, the elimination of segregated, impoverished inner-city ***17** neighborhoods. High levels of racial segregation, particularly between black and white residents in central-city neighborhoods, continue to mark cities and urban centers. Gregory D. Squires & Charles E. Kubrin, *Privileged Places: Race, Uneven Development and the Geography of Opportunity in Urban America,* 42 Urb. Stud. 47, 49 (2005); *see also Race, Poverty, and American Cities* 5 (John Charles Boger & Judith Welch Wegner, eds. 1996) ("[T]he fundamental social and economic diagnoses of the Kerner Commission remain pertinent nearly three decades later."). In many of our Nation's cities, including Cleveland, New York, Atlanta, and Los Angeles, significant numbers of black residents live in segregated, poor, "economically isolated" areas. Alan Berube & Bruce Katz, Brookings Institution, *Katrina's Window: Confronting Concentrated Poverty Across America* 3 (2005) ("More than 30 percent of poor blacks [in these cities] live in areas of severe social and economic distress.").

Segregation and the effects that flow from it persist in imposing the types of harm on cities that motivated Congress to enact the Fair Housing Act. Residents of segregated inner-city neighborhoods continue to lack ready access to employment, due in significant part to the distance between the inner city and the location of most available jobs. *The Geography of Opportunity* 34 (Xavier de Souza Briggs, ed. 2005) (reviewing evidence showing that suburban job growth dramatically outstripped that in the inner cities from the 1960s through the 1990s). Numerous studies in recent ***18** decades confirm that this "spatial mismatch" - a term coined by economist John Kain in 1968 - between inner-city residents and employment opportunities leads to high concentrations of poverty in minority enclaves. *Id.* at 34-35; *see also, e.g.,* Squires & Kubrin, *supra,* at 53. Discriminatory housing practices further exacerbate this concentration of poverty. Housing discrimination not only perpetuates residential segregation by confining minorities to certain neighborhoods, *see Race, Poverty, and American Cities, supra,* at 33, but it also drives up the housing "cost burden" by constraining supply or imposing additional housing costs on minority residents. *See* Berube & Katz, *supra,* at 5; Squires & Kubrin, *supra,* at 55; *see also The Geography of Opportunity, supra,* at 102-03 (concluding that minority homeowners "frequently end up paying too much for mortgage credit" due to discriminatory lending practices).

With that segregation and concentration of poverty comes increased "physical disorder" associated with vacant, unkempt, or overcrowded properties. Dan Immergluck & Geoff Smith, *The Impact of Single-family Mortgage Foreclosures on Neighborhood Crime,* 21 Housing Stud. 851, 855 (2006). When physical deterioration is coupled with social problems stemming from the concentration of low-income residents in a confined area, increased levels of crime and overall neighborhood decay are the consequence. *Id.* at 855-56; *see also* Squires & Kubrin, *supra,* at 54 ("Racial segregation is a critical culprit" in increased crime ***19** rates because "[s]egregation tends to concentrate poverty and a range of social problems long associated with older urban communities."). As a consequence, crime rates in predominantly minority inner-city areas remain disproportionately higher than in other communities, and minority residents are more likely than white residents to be victims of criminal activity. Squires & Kubrin, *supra,* at 54.

The association of segregation with poverty and crime also leads to a vicious, self-perpetuating cycle in which physical decay and crime cause businesses and social organizations to flee segregated areas, thereby further diminishing access to jobs and entrenching poverty. *Id.* For segregated communities, segregation and its accompanying poor conditions "are mutually reinforcing and cumulative.... Segregation creates the structural niche within which a self-perpetuating cycle of minority poverty and deprivation can flourish." *Race, Poverty, and American Cities, supra,* at 18; *see also* Paul A. Jargowsky, The Century Found., *The Architecture of Segregation: Civil Unrest, the Concentration of Poverty, and Public Policy* 14 (2015) (Discriminatory housing practices "build *a durable architecture* of segregation that ensures that racial segregation and the concentration of poverty is entrenched for years to come."). The result is that segregated inner-city neighborhoods continue to resemble the urban "ghettos" that Congress sought to address through the FHA. *See* 114 Cong. Rec. 2993 (1968) (statement of Sen. Mondale).

***20** Cities and counties themselves likewise continue to suffer the same harms that spurred Congress to action in 1968.[4] Persistent segregation in residential living patterns still leads to racial segregation in schools, making it difficult for cities to achieve the unquestionably worthy goal of integration in educational settings. Univ. of Minn. L. Sch. Institute on Race & Poverty, *A Comprehensive Strategy To Integrate Twin Cities Schools and Neighborhoods* 1 (2009) [hereinafter *Comprehensive Strategy*]. Indeed, "[s]chool failure is, if anything, more closely tied to segregation by race and class than it was thirty years ago" because of white flight from previously integrated urban areas. *The Geography of Opportunity, supra,* at 7; *see also Race, Poverty, and American Cities, supra,* at 468 (noting that segregation and concentration of poverty continue to interfere with educational opportunities in the inner city). Crime and social disorder have a negative effect not only on the quality of life of residents living in segregated areas, but also on the public fisc of local governments themselves, as those entities must provide increased policing and similar municipal services to ***21** high-crime areas. Berube & Katz, *supra,* at 6. In addition, the concentration of poverty that accompanies segregation further burdens local governments' fiscal capacities, as impoverished communities often require other services - related to elevated welfare case loads, higher numbers of indigent patients at public hospitals, and the need to provide additional educational services for failing schools - that tax strained city budgets and divert resources from other public services. *Id.* (identifying the presence of these factors in New Orleans as contributing to the city's distressed economic position); *Race, Poverty, and American Cities, supra,* at 9.

The process of public and private disinvestment that accompanies segregation, crime, and neighborhood decay further burdens municipal governments. Segregated inner-city neighborhoods remain unattractive to investors, employers, and business site-location decisionmakers. Berube & Katz, *supra,* at 5. The resulting absence of private investment reduces available jobs and simultaneously depletes the city's business and property tax base. *Comprehensive Strategy, supra,* at 11. At the same time, diminished employment opportunities and the negative community effects of racial segregation make minority enclaves less attractive places to live, reducing property values and further threatening local governments' property tax revenues. *Id.* This cycle puts communities "in a double bind, as racial segregation and concentration of poverty sap their fiscal capacities while their financial obligations accelerate as a result of growing social ***22** costs." *Id.* The end result is a serious negative impact on segregated cities' ability to remain competitive in the economic marketplace. Indeed, recent analysis shows that high levels of racial segregation are associated with a three to six percent decline in metropolitan-level productivity, apart from increased municipal costs. Squires & Kubrin, *supra,* at 55.

Put bluntly, the very "vitality of cities is directly correlated with their degree of economic and racial desegregation." *Race, Poverty, and American Cities, supra,* at 40. The effects that housing discrimination, segregation, and their associated ills have on cities are as tangible today as they were in 1968. For cities to remain vibrant institutions, competitive in the economic marketplace, they must have ample tools at their disposal to ameliorate racial inequality in housing. *See* Squires & Kubrin, *supra,* at 60.

B. Discriminatory Predatory Lending Has Hurt Cities By Perpetuating Segregation And Its Negative Effects.

Predatory lending practices have inflicted on cities the very same harms that are typically associated with housing discrimination: Discriminatory lending has entrenched racial segregation; it has led to the escalation of crime and other forms of urban decay; it has diminished cities' ability to provide adequate services for vulnerable residents; and it has affected cities financially, threatening their ability to remain economically competitive. *Amici* and other cities' experiences ***23** demonstrate why petitioners' unfounded argument that these cases do not seek to "combat segregation, promote integration," or protect an "interest in non-discrimination" is a fallacy. *See* Bank of Am. Br. 7; Wells Fargo Br. 29.

1. Perhaps most importantly, cities' experiences over the past decade have demonstrated that discriminatory predatory lending and its ensuing consequences - like foreclosure, abandonment, and blight - have entrenched and exacerbated racially segregated housing patterns. A number of empirical studies have demonstrated that predatory lending has overwhelmingly targeted minority neighborhoods and communities. Paul Calem, Jonathan E. Hershaff & Susan M. Wachter, *Neighborhood Patterns of Subprime Lending: Evidence from Disparate Cities,* 15 Housing Pol'y Debate 603, 605, 615 (2004) [hereinafter *Neighborhood Patterns*] (examining subprime lending patterns in Atlanta, Baltimore, Chicago, Dallas, Los Angeles, New York, and Philadelphia and finding a "striking positive correlation ... between predominantly minority neighborhoods and frequency of subprime lending").

This research is consistent with *amici* and other cities' own observations about the patterns of predatory lending in their jurisdictions. *See, e.g.,* Third Am. Compl. for Decl. and Inj. Relief and Damages, *Mayor and City Council of Baltimore v. Wells Fargo Bank, N.A.,* No. 2:09-cv-02857-STA-dkv ¶ 50 (D. Md., Oct. 21, 2010) (Balt. Compl.); First Am. Compl. for Decl. and Inj. Relief and Damages, *City of Memphis v. Wells Fargo Bank, N.A.,* No. 2:09-cv-02857x-STA-dkv ¶ 4 ***24** (W.D. Tenn., Apr. 4, 2010) (Memphis Compl.); *see also* Federal Reserve Bank of Cleveland, *Facing the Foreclosure Crisis in Greater Cleveland: What Happened and How Communities Are Responding* 10 (2010) [hereinafter *Greater Cleveland*] (concluding that minority neighborhoods in Cleveland "have been more affected by subprime lending that led to foreclosure"). Those minority neighborhoods are typically found in cities that are highly segregated along racial lines. Memphis Compl. ¶ 52; Balt. Compl. ¶ 29; *Greater Cleveland, supra,* at 3. Indeed, it is the very presence of residential racial segregation that likely makes it possible for lenders to target subprime loans to minority applicants. Balt. Compl. ¶ 31 ("The people who are most vulnerable to abusive lending practices are geographically concentrated and therefore easily targeted by lenders."); *see also Honorable v. Easy Life Real Estate Sys.,* 100 F. Supp. 2d 885, 886 (N.D. Ill. 2000) (describing predatory loans offered to a community with a 95 percent African-American population).

These communities are also likely to be impoverished and therefore easily destabilized by economic harms like predatory loans and foreclosures. As *amici* and researchers have observed, neighborhoods that are predominantly minority-occupied tend to be low-income. *See, e.g., Neighborhood Patterns, supra,* at 607. These neighborhoods also tend to be coping with existing socio-economic disorganization. Matthew Hall, Kyle Crowder & Amy Spring, *Neighborhood Foreclosures, Racial/Ethnic Transitions, and Residential Segregation,* 80 Am. Soc. Rev. 526, 529 (2015) [hereinafter

Neighborhood Foreclosures]. In Memphis, for instance, ***25** predatory loans and foreclosures have been "concentrated in distressed neighborhoods that are already struggling with issues of economic development and poverty." Memphis Compl. ¶ 26. The same has been true in Cleveland, where targeted neighborhoods tended to be those already weakened by job loss, fragile economic markets, and rising vacancy rates. *See Greater Cleveland, supra,* at 4. Indeed, many affected neighborhoods are still reeling from the burdens of explicitly discriminatory housing policies. *See* Causa Justa, Alameda County Public Health Department, *Rebuilding Neighborhoods, Restoring Health: A Report on the Impact of Foreclosures on Public Health* 11 (2009) [hereinafter *Rebuilding Neighborhoods*]. This existing socio-economic vulnerability shows why petitioners' high-pitched claim that the harm from their practices would be no different if they had targeted white consumers instead is implausible. Wells Fargo Br. 30. Petitioners targeted vulnerable communities that were likely to be severely impacted by predatory loans and their effects.

The consequence of petitioners' targeted predatory lending practices and the existing instability of affected neighborhoods has been the exacerbation of racial residential segregation in these cities and communities. Because these neighborhoods are already economically vulnerable, they tend to be more easily destabilized by "visible, confidence-reducing events like foreclosure sales," abandonment, and the other "negative externalities" that often accompany foreclosures. Immergluck & Smith, *supra,* at 854. This ***26** destabilization encourages white flight and reduces integration in neighborhoods with substantial minority populations. *Id.* As a consequence of the rise in foreclosures, residential racial segregation throughout the Nation has increased. *Neighborhood Foreclosures, supra,* at 540.

This national effect correlates with cities' observed experiences. For example, in New Orleans, increasing numbers of foreclosures have been associated with greater residential racial segregation, as white residents began to leave areas with high foreclosure and abandonment rates. Mickey Lauria & Vern Baxter, *Residential Mortgage Foreclosure and Racial Transition in New Orleans,* 34 Urb. Affairs Rev. 757, 778-86 (1999). The same phenomenon has been observed in the Cleveland metropolitan area, where higher foreclosure rates are positively related to increases in the number of black residents living within a particular area. Yanmei Li & Hazel Morrow-Jones, *The Impact of Residential Mortgage Foreclosure on Neighborhood Change and Succession,* 30 J. Planning, Educ. & Res. 22, 33 (2010).

The result is that localities heavily impacted by discriminatory predatory lending and ensuing foreclosures are likely to be more racially segregated than they would have been absent such practices. Immergluck & Smith, *supra,* at 854. At a minimum, the banks' practices and the consequent neighborhood deterioration that followed entrenched segregation by forestalling further integration of those areas. *Id.* Given this observed reality, it becomes impossible to ***27** credit petitioners' argument that respondent's claims are unrelated to an interest in integration. *See, e.g.*, Wells Fargo Br. 29. Cities that invoke the FHA in cases like these do so to protect their interest in maintaining and achieving integrated neighborhoods by challenging conduct that inhibits that goal.

2. In addition to increased segregation, discriminatory predatory lending practices also impose other tangible harms on cities - harms that are similarly reminiscent of the issues that plagued urban centers in the 1960s. *See, e.g., Kerner Commission Report, supra,* at 266. Chief among those harms that *amici* cities have observed is the dramatic increase in crime and rapid neighborhood decay associated with foreclosures, property abandonment, and long-term vacancies.

Considerable research has documented the connection between foreclosures and higher rates of both property-related and violent crime. *See, e.g.*, G. Thomas Kingsley, Robin Smith & David Price, The Urban Institute, *The Impacts of Foreclosures on Families and Communities* 17-18 (2009) (discussing studies) [hereinafter *Impacts of Foreclosures*]; William C. Apgar & Mark Duda, Homeownership Preservation Found., *Collateral Damage: The Municipal Impact of Today's Mortgage Foreclosure Boom* 9 (2015) (concluding that "crime and other social ills" are some of the "significant spillover effects" of predatory lending); Immergluck & Smith, *supra,* at 863 (finding that "higher neighborhood foreclosure rates lead to higher levels of violent crime at appreciable levels," in addition to an increase in property crime). That research identifies several ***28** reasons for the connection: Foreclosures may lead to physical deterioration of neighborhoods, as owners no longer have the resources or incentives to maintain their property. This neighborhood decay can "signal a degree of complacency among neighborhood residents about social disorder and crime." [5] Similarly, foreclosures can lead to residential turnover and increased transience, which can "weaken the informal social controls in a neighborhood that prevent crime." *Id.* In addition, foreclosures lead to abandonment, extended vacancies, and the presence of blighted buildings. Abandonment reduces the number of "eyes on the street," *id.*, and also provides a safe haven for criminal activity, as abandoned buildings are frequently used as drug dens, safe houses, or places for other predatory criminal activity. Immergluck & Smith, *supra,* at 856. Vacant homes may be targets of vandalism, arson, or theft of building components like wiring. *Id.* They may also be occupied by squatters, which can indirectly lead to problems with vermin infestation, trash accumulation, and accidental fire. *Id.*

Besides these troublesome effects, increased crime and blight have serious negative secondary impacts on cities. Crime, vandalism, and blight further spur deterioration of distressed neighborhoods, as they make businesses and other investors reluctant to enter ***29** affected neighborhoods, thereby exacerbating the poverty and isolation that bred crime in the first place. Abandonment and blight thus perpetuate a cycle of neighborhood decay that affected communities lack the economic resources to counteract. *See Rebuilding Neighborhoods, supra,* at 36.

Amici and other cities have observed this connection between predatory lending, foreclosures and abandonment, and increased rates of crime and neighborhood deterioration. The Charlotte-Mecklenberg Police Department conducted a study of neighborhoods with high "clusters of foreclosure" from 2003-2007 and determined that violent crime rates had appreciated significantly in those neighborhoods as compared to those with fewer foreclosures. *Impacts of Foreclosures, supra,* at 18 (concluding that violent crime was three times more likely to occur in "high-foreclosure clusters" than in the comparison group). The City of Chicago has also observed a significant relationship between foreclosures and violent crime, *id.*, and between increased criminal activity and the presence of abandoned buildings. [6] Foreclosures have likewise led to neighborhood blight and higher rates of crime in New York City. An analysis of crime in New York City between 2004 and 2008 found a significant positive connection between foreclosure activity and crime rates - violent crime ***30** rates in particular. *Do Foreclosures Cause Crime?, supra,* at 22-23. Pittsburgh has also experienced increases in violent crimes connected with foreclosures and resulting vacancy; data from Pittsburgh have shown that the number of violent crimes occurring within 250 feet of a foreclosed property sharply increases once the property becomes vacant. *Id.* at 5. The City of Baltimore has incurred significant costs from crime, squatting, loitering, trash accumulation, rat infestation, and similar problems in connection with vacant properties. Balt. Compl. ¶ 311. Residents of the city regularly observe illegal activity like squatting, drug use, storage of drug paraphernalia, and similar behavior at vacant foreclosed properties. *Id.* ¶¶ 312-19.

The increase in crime rates and neighborhood blight stemming from foreclosures has caused serious economic impacts on cities. Br. in Opp. (Wells Fargo) 2-3; Resp. Br. (BoA) 6. But the costs cities bear from abandonment, blight, and crime are not merely economic. Predatory lending and foreclosures have diminished the quality of life of city residents living in heavily impacted neighborhoods. For instance, Baltimore residents living near vacant foreclosure properties have described the effects that those properties have on their daily lives. Squatters break into foreclosed properties to set fires, hold dog fights, use and deal drugs, and steal pipes and other property from vacant homes. Balt. Compl. ¶¶ 312-19; *see also* U.S. Gen. Accountability Office, *Vacant Properties: Growing Number Increases Communities' Costs and Challenges* ***31** 43 (2011) [hereinafter *GAO Report*] (describing "houses that had been stripped of copper pipes or wiring or electrical systems or meters, air conditioning units or furnaces, and appliances, among other things"). Those squatters often accumulate trash at vacant properties, which leads to rat and cockroach infestations that can affect neighboring homes and businesses. Balt. Compl. ¶ 313 (describing that "[t]rash has been piled high at the [foreclosed] properties ... and it has rat and cockroach problems" that have spread to nearby properties); *see also id.* ¶ 318 ("The Wells Fargo foreclosure property at 2918 Winchester Street is next door to James Mears's home ... [and] has caused rat, mice, and water problems at his home."). Neighborhood residents witness and experience the increased crime levels that often accompany abandonment, and their day-to-day lives become more anxious and fearful as a result. *See id.* ¶ 312 ("[Baltimore resident Genevieve Matthews] is scared because she lives next door to a property that is occupied by squatters."); *id.* ¶ 315 ("Baltimore resident Stephen [Faison] no longer feels safe when he goes to work early in the morning because of strangers who loiter and sleep at the vacant house next to his."). Indeed, a survey of Oakland, California residents living in neighborhoods with significant numbers of "vacant, neglected" properties found that 39 percent believe the amount of violence in their neighborhoods has risen as vacancy and blight has increased. *Rebuilding Neighborhoods, supra,* at 8. Forty-seven percent of area residents believe that their neighborhood is not a safe place to live. *Id.* at 34, 35. ***32** These safety concerns affect all neighborhood residents, but often harm children most severely, as children frequently suffer serious emotional distress from living in neighborhoods with vacant properties and higher crime rates. [7]

As a result of the increase in crime and blight that accompanies foreclosure and abandonment, many urban neighborhoods have recently come to resemble the impoverished, dangerous inner-city urban areas that spurred Congress to enact the Fair Housing Act in 1968. *See, e.g.,* 113 Cong. Rec. 19,390 (1967) (statement of Rep. Wyman). In using the Fair Housing Act to hold banks accountable for the serious negative effects that predatory lending and foreclosures have inflicted on their communities, cities are not attempting to recover mere economic costs. They are instead simply asking that banks absorb the direct effects of their discriminatory conduct.

3. The same is true of cities' use of the Fair Housing Act to address the economic impact that discriminatory predatory lending has had on their communities. Foreclosures and consequent decreased property values have, without question, harmed municipalities' tax bases by diminishing property tax revenues. Resp. Br. (Wells Fargo) 6-7. But this direct financial impact represents only a portion of the economic harm that predatory lending has wrought on many cities and ***33** communities. The collective economic aftershocks of predatory lending and foreclosures have reverberated throughout affected communities in much the same way that discriminatory housing practices and their effects did in the 1960s. *See* 114 Cong. Rec. 2988 (1968) (statement of Sen. Brooke).

High-foreclosure neighborhoods have been particularly hard hit by the interaction between the increased municipal services those neighborhoods need and the diminished property tax revenues that cities have available. The costs that cities bear as a result of foreclosures and abandonment are well-documented. Resp. Br. (Wells Fargo) 48-49. The existence of vacant properties alone requires significant financial outlays from cities. For instance, Baltimore faced approximately $180 million in demolition costs at the height of the foreclosure epidemic. *GAO Report, supra,* at 42. The City of Philadelphia annually spends over $20 million to maintain approximately 40,000 vacant properties. [8] Foreclosed and abandoned properties cost the City of Chicago upwards of $34,000 per property, depending on the extent to which the property is secured, damaged, or subject to criminal activity. Apgar & Duda, *supra,* at 15.

***34** At the same time, the rise in foreclosures has diminished local governments' property tax revenues, which those governments use to fund a host of municipal services. *Id.* at 7; *see also Impacts of Foreclosures, supra,* at 19. Los Angeles, for instance, estimates that it will lose $481 million of property tax revenue from the foreclosure crisis. The Alliance of Californians for Community Empowerment and the California Reinvestment Coalition, *The Wall Street Wrecking Ball: What Foreclosures Are Costing Los Angeles Neighborhoods* 2-3 (2011) [hereinafter *Los Angeles Neighborhoods*]. Studies in Seattle similarly project that the foreclosure epidemic has cost its local government approximately $142 million. United Black Clergy and Washington Community Action Network, *The Wall Street Wrecking Ball: What Foreclosures Are Costing Us and Why We Need to Reset Seattle Mortgages* 4 (2013). And an analysis of foreclosures in San Francisco projected that the city would lose $42 million in property tax revenue. The Alliance of Californians for Community Empowerment and the California Reinvestment Coalition, *The Wall Street Wrecking Ball: What Foreclosures Are Costing San Francisco Neighborhoods* 2-3 (2011).

The consequence is not an abstract hit to cities' pocketbooks, as petitioners would portray it - it is cities' inability to provide the full complement of municipal services that their residents need. Cities have reported that they are "less able to meet fiscal needs" than they were before the rates of foreclosure began to increase. *Impacts of Foreclosures, supra,* at 19. The ***35** effects of this shortfall are often felt city-wide, as municipalities are left unable to pay for services like libraries, parks, recreation programs, transportation, the arts, education, and so forth. *See Los Angeles Neighborhoods, supra,* at

3; *see also Rebuilding Neighborhoods, supra,* at 36 ("Falling property values diminish critical property tax streams that fund essential municipal services, like public schools, building and park maintenance, garbage collection, and police.").

Indeed, in a 2011 survey, over 40 percent of the 272 cities surveyed reported that shortfalls in tax revenue required them to make such cuts. Christopher W. Hoene & Michael A. Pagano, Nat'l League of Cities, *Research Brief on America's Cities, September 2011* (2011). The impact is usually particularly serious in lower-income, vulnerable neighborhoods where residents are more likely to need municipal services that are critical for public health and well-being. *See Rebuilding Neighborhoods, supra,* at 36-37 (describing impact of reduced property tax revenues on City of Oakland's ability to provide services to low-income residents). Schools, in particular, have been negatively affected by the foreclosure crisis and remain in need of additional funding to "absorb the shocks of mass displacement and homelessness resulting from foreclosures." *Id.* at 32 (discussing study of Oakland Unified School District). A study of eight cities in Ohio - including Cleveland, Columbus, and Toledo - showed that foreclosures, abandonment, and blight deprived those cities of nearly $30 million in property tax revenues in 2006 and 2007 alone. Community Research Partners, ***36** *$60 Million and Counting: The Cost of Vacant and Abandoned Properties to Eight Ohio Cities* 3-5 (2008). The City of Chicago closed 50 schools - many in distressed neighborhoods - in 2013 in an effort to conserve city resources. [9]

The economic consequences of foreclosures also redound to neighboring property owners. Nearby foreclosures, and particularly the presence of vacant units, make neighborhoods less attractive to homebuyers and stifle price appreciation. Apgar & Duda, *supra,* at 23. A Philadelphia study has estimated that homes within 150 feet of an abandoned property decline in value by an average of $7,627; homes within a more distant radius are also negatively impacted. [10] In Los Angeles, research has shown that each foreclosed property causes the value of neighboring homes within an eighth of a mile to drop 0.9 percent. *Los Angeles Neighborhoods, supra,* at 3. An analysis of foreclosures' effects on property values in the City of Flint, Michigan, found that a vacant property could reduce the value of surrounding homes by approximately 2.27 percent. Nigel G. Griswold & Patricia E. Norris, MSU Land Policy Institute, *Economic Impacts of Residential Property Abandonment and the Genesee County Land Bank in Flint, Michigan* 4 (2007). In Oakland, it was estimated ***37** that foreclosures decreased property values by $4 billion. The Alliance of Californians for Community Empowerment and the California Reinvestment Coalition, *The Wall Street Wrecking Ball: What Foreclosures Are Costing Oakland Neighborhoods* 3 (2011). Ultimately - as experience in Cleveland showed - "foreclosures beget other foreclosures," in part because of their negative effects on surrounding property values. *Greater Cleveland, supra,* at 10.

Recognizing that cities and counties should rely on the FHA in part to remedy these economic impacts does not, as petitioners would argue, open the door to allow "local businesses, from bowling alleys to coffee shops" to "sue for loss of customers." Wells Fargo Br. 19. As the Act's legislative history demonstrates, cities have a unique interest in preserving their economic vitality and competitive position in our Nation's marketplace. Decreasing property values spur neighborhood disinvestment and loss of capital. *Rebuilding Neighborhoods, supra,* at 36. That is, businesses take note of a city's declining economic capacity and are reluctant to locate there. The presence of crime and neighborhood blight make the threat of disinvestment worse, as these factors likewise contribute to the decay of neighborhoods and cities. *Id.* at 8. Absent intervention, the result is likely to be economic marginalization of the Nation's urban centers - a reality reminiscent of the circumstances that spurred the Fair Housing Act's passage. 114 Cong. Rec. 2993 (1968) (statement of Sen. Mondale). *Amici*'s present-day concern with eliminating segregation and its accompanying ill effects - like ***38** crime, poverty, and economic decay - is similar to the interest cities had in 1968 in remedying similar effects of housing discrimination.

The practical necessity of allowing cities to rely on the FHA to protect that interest is heightened by the enforcement gap that will open up if cities are excluded from enforcing the Act's terms. The far-reaching effects of predatory lending and foreclosure - segregated neighborhoods, declining property values, increased crime, and related ill effects - are likely to fall heavily on individuals who may not themselves have been victims of discriminatory action. Neighbors of foreclosed properties are likely to feel the ramifications of increased crime. Balt. Compl. ¶¶ 312-19. Surrounding properties will be affected by reduced property values. *See* pp. 36-37, *supra.* And local residents will all be impacted by increased residential racial segregation. *See* pp. 23-27, *supra.* Yet unless these affected residents were themselves targets of predatory lending, it is possible that none of them will be an "aggrieved person" within the Act's meaning. And in any case, it is unlikely that any one individual's claim regarding increased crime, decreased property value, or the like will fully capture the extent of the wide-reaching harm that predatory lending and foreclosures inflict on metropolitan areas. The consequence will be that the FHA will not adequately reach discriminatory actions like predatory lending or other widespread practices with dispersed effects. Cities must be permitted to use the FHA - as they have for decades - to enforce the Act's ***39** promise to protect the inner city and secure housing equality for all residents.

CONCLUSION

The Fair Housing Act's background demonstrates that cities' interests lie at the heart of the Act's scope. Congress understood that the Nation's inner cities had been devastated by decades of entrenched racial housing segregation and its accompanying ills. *Amici* and other municipalities continue to suffer economic and social harms from practices - like predatory lending - that encourage segregation and lead to the deterioration of inner-city neighborhoods. When cities sue under the FHA to address those practices, they are protecting an interest in integration and non-discrimination that the FHA aims to protect. *Amici* respectfully urge this Court to find that cities acting in this capacity fall within any zone of interests that the Fair Housing ***40** Act might contain, and to affirm the Eleventh Circuit's judgment.

Footnotes

1 Pursuant to Supreme Court Rule 37.6, *amici* affirm that no counsel for a party authored this brief in whole or in part and that no person other than *amici* and their counsel made a monetary contribution to its preparation or submission. All parties' letters consenting to the submission of *amicus* briefs have been filed with the Clerk's Office.

2 Detroit, Newark, and Cincinnati collectively suffered over $50 million in property damage from the 1967 riots. *Kerner Commission Report, supra,* at 115. In addition, cities were required to spend staggering amounts in their capacities as first responders to the violence. For instance, Detroit incurred over $5 million in "extraordinary expenses" associated with the riots; Cincinnati spent $300,000 in police and fire overtime costs in the span of a single week. *Id.* at 164.

3 For over three decades, the courts of appeals have consistently interpreted the FHA to permit cities and counties to remedy discriminatory practices that harm them or their residents. *See, e.g., City of Chicago v. Matchmaker Real Estate Sales Ctr., Inc.,* 982 F.2d 1086, 1095 (7th Cir. 1992); *Vill. of Bellwood v. Dwivedi,* 895 F.2d 1521, 1525 (7th Cir. 1990); *Heights Cmty. Cong. v. Hilltop Realty, Inc.,* 774 F.2d 135, 139 (6th Cir. 1985). Until recently, no court has seriously doubted that a local government suffering harm from discriminatory conduct could rely on the FHA to seek redress for its economic injuries.

4 Discriminatory housing practices, like predatory lending, are just one of many obstacles cities face in stabilizing and maintaining diverse neighborhoods. Fluctuating housing prices, access to community institutions, and economic pressures can all have negative effects on vulnerable neighborhoods that cities may choose to remedy through a variety of means, including through fair housing plans and other policy tools. *Amici* have an interest in ensuring access to a broad array of these tools, including the Fair Housing Act itself, to maintain stable and inclusive neighborhoods.

5 Ingrid Gould Ellen, Johanna Lacoe & Claudia Ayanna Sharygin, Furman Center for Real Estate and Urban Policy, *Do Foreclosures Cause Crime?* 2 (June 2011), http://furmancenter.org/files/publications/Ellen_Lacoe_Sharygin_ForeclosuresCrime_June27_1.pdf [hereinafter *Do Foreclosures Cause Crime?*].

6 Lawyers' Committee for Better Housing, *Vacant Properties: Havens for Crime in a City Plagued By Violence* (2013), http://lcbh.org/sites/default/files/resources/2013-LCBH-Vacant-Properties-and-Crime-Report.pdf ("From 2005-2012, criminal activity in abandoned buildings and vacant lots [in Chicago] increased by 48%.").

7 Julia B. Isaacs, Brookings Institution, *The Ongoing Impact of Foreclosures on Children* 6 (2012), https://www.brookings.edu/wp-content/uploads/2016/06/0418_foreclosures_children_isaacs.pdf.

8 Econsult Corporation, Penn Institute for Urban Research & May 8 Consulting, *Vacant Land Management in Philadelphia: The Costs of the Current System and the Benefits of Reform* 9-12 (2010) (prepared for the Redevelopment Authority of the City of Philadelphia), http://planphilly.com/uploads/media_items/http-planphilly-com-sites-planphilly-com-files-econsult_vacant_land_full_report-pdf.original.pdf.

9 Chicago Teachers Union, *Twelve Months Later: The Impact of School Closings in Chicago* 3 (2014), http://www.ctunet.com/quest-center/TwelveMonthsLaterReport.pdf.

10 Nat'l Vacant Properties Campaign, *Vacant Properties: The True Costs to Communities* 9 (2005), https://www.smartgrowthamerica.org/app/legacy/documents/true-costs.pdf.

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